TITLE 23—HIGHWAYS

This title was enacted by Pub. L. 85-767, § 1, Aug. 27, 1958, 72 Stat. 885.

Chap.		Sec.
1.	Federal Aid Highways[1]	101
2.	Other Highways	201
3.	General Provisions	301
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AMENDMENTS

1966—Pub. L. 89-564, title I, § 102(b)(3), Sept. 9, 1966, 80 Stat. 735, added item 4.

TABLE

Showing disposition of all sections of former Title 23.

Title 23 former sections	*Title 23 new sections*
1	Omitted.
2	101.
2a	101(a).
2b	101(a).
3-5	Omitted.
6	103(b), 103(e), 105(c), 121(c).
6-1	103(c).
6a	103(d).
6a-1	105(d).
6a-2	310.
6b, 6c	Omitted.
7	110(a).
8	109(a).
8a	109(a), 112(a).
9	301.
9a	129(a).
9a-1	Omitted.
9b	129(a).
10	109(a).
10a-11	Omitted.
12	105(a), 106(a), 106(c), 121(d).
12a	121(c).
12b	Omitted.
13	114(a).
13-1	112(b), 112(c).
13a	Omitted.
13b	103(d).
14	121(a), 121(b), 121(e).
14a	See § 308(a).
15, 16	Omitted.
17	316.
18	317(a), (b), (c).
19	315.
20, 20a	Omitted.
21	104(a), 104(b)(1).
21-1	307(a), 307(b).
21a	104(b), 105(a), 106(a), 114(a), 118(a), 118(c).
21a-1 to 21b	Omitted.
21c	311.
21d	Omitted.
21e	122.
22	104(e).
23	101(a), 202(b), 204(a), 204(b), 204(c), 205(a), 205(b), 205(c).
23a to 23b-1	Omitted.
23c	205(c).
24	Omitted.
24a	109(e).
25, 26	Omitted.
41	101(a), 105(e).
41a	101(a), 103(b).
41b	101(a), 103(b).
42-45	Omitted.
46	See T. 18, § 1020.
47, 48	Omitted.
49	See T. 40, §§ 483, 484.
50	Omitted.
51	See T. 40, §§ 483, 484.
52	See T. 40, §§ 483, 484.
53	See T. 40, §§ 483, 484.
54-54b	Omitted.
55	126.
55b	126(b).
56	Omitted.
57	See § 314.
58-59a	Omitted.
61	307(c).
62	318.
63	109(d).
64	320(a).
65	320(b).
66	320(c).
67	320(d).
68	320(e).
69	320(f).
70	313.
71	303(a).
72	See § 303 note.
73	303(a).
101-105	Omitted.
106	210(a), 210(b).
107-113	Omitted.
114	210(e).
115	308(a).
116	315.
117	312.
151	104(c), 117(a), 117(b), 117(c), 118(b).
152	204(f), 205(d).
153	206(a), 207(a), 208(a), 208(b).
154	209(a).
155	203.
156	101(b), 103(f), 104(b)(1), 116(d), 119(a), 119(b), 120(h).
157	103(d).
158	101(b), 104(b)(4), 104(b)(5), 109(b), 115, 118(c), 120(c), 127, 307 note.
159	107(a), 107(b), 107(c), 107(d).
160	108(a), 108(b).
161	124
162	123(a), 123(b), 123(c).
163	111.
164	129(b), 129(c), 129(d).
165	Omitted.
166	113(a), 113(b).
167	101(b), 128(a), 128(b), 304.
168, 169	Omitted.
170	305.
171	306.
172	Omitted.
173	See § 120 note.
174	See § 307 note.
175	Omitted.

[1] So in original. Does not conform to chapter heading.

CITATION

Section 1 of Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 885, provided in part that this title may be cited as "Title 23, United States Code, § —".

REPEALS

Section 2 of Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 919, repealed the sections or parts of sections of the Revised Statutes or Statutes at Large covering provisions codified in this title.

CONSTRUCTION

Section 3 of Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 921, provided that:

"(a) If any provision of title 23, as enacted by section 1 of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the title and the application of the provision to other persons or circumstances shall not be affected thereby.

"(b) The provisions of this Act shall be subject to Reorganization Plan Numbered 5 of 1950 (64 Stat. 1263) [set out in the Appendix to Title 5]."

SAVINGS CLAUSE

Section 4 of Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 921, provided that: "Any rights or liabilities now existing under prior Acts or portions thereof shall not be affected by the repeal of such prior Acts or portions under section 2 of this Act."

CHAPTER 1—FEDERAL-AID HIGHWAYS

Sec.

101. Definitions and declaration of policy.
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127. Vehicle weight and width limitations—Interstate System.
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136. Control of junkyards.
137. Fringe and corridor parking facilities.
138. Preservation of parklands.
139. Additions to Interstate System.
140 Equal employment opportunity.
141. Enforcement of requirements.
142. Public transportation.
143. Economic growth center development highways.
144. Special bridge replacement program.
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147. Priority primary routes.
148. Development of a national scenic and recreational highway.
149. Truck lanes.
150. Allocation of urban system funds.
151. Pavement marking demonstration program.
152. Projects for high-hazard locations.
153. Program for the elimination of roadside obstacles.
154. National maximum speed limit.
155. Access highways to public recreation areas on certain lakes.
156. Highways crossing Federal projects.

AMENDMENTS

1976—Pub. L. 94-280, title I, §§ 123(b), 128(b), 132(b), 139, May 5, 1976, 90 Stat. 439 to 441, 443, substituted item 135 "Traffic operations improvement programs" for "Urban area traffic operations improvement programs"; substituted item 146 "Repealed" for "Special urban high density traffic programs"; added item 156 "Highways crossing Federal projects"; and substituted item 111 "Agreements relating to use of and access to rights-of-way—Interstate System" for "Use of and access to rights-of-way—Interstate System" and substituted items 119 and 133 "Repealed" for "Administration of Federal-aid for highways in Alaska" and "Relocation assistance", respectively.

1975—Pub. L. 93-643, §§ 107(b), 114(b), 115(b), Jan. 4, 1975, 88 Stat. 2284, 2286, 2287, substituted item 141 reading "Enforcement of requirements" for prior text reading "Real property acquisition policies", and added items 154 and 155.

1973—Pub. L. 93-87, title I, §§ 116(b), 121(b), 123(b), 125(b), 126(b), 129(c), 142(b), 157(b), title II, §§ 205(b), 209(b), 210(b), Aug. 13, 1973, 87 Stat. 258, 261, 263, 264, 266, 272, 278, 285, 287, 288, substituted "Certification acceptance" for "Secondary road responsibilities" in item 117, "Public transportation" for "Urban highway public transportation" in item 142, and added items 145 to 153.

1970—Pub. L. 91-605, title I, §§ 111(b), 127(b), 134(b), title II, § 204(b), Dec. 31, 1970, 84 Stat. 1720, 1731, 1734, 1742, added items 142, 143, 144, and substituted "Fringe and corridor parking facilities" for "Limitation on authorization of appropriations for certain purposes" in item 137.

1968—Pub. L. 90-495, §§ 10(b), 12(b), 16(b), 22(b), 25(c), 35(b), Aug. 23, 1968, 82 Stat. 820, 822, 823, 827, 829, 836, added items 135, 139, 140, and 141 and substituted "Prevailing rate of wage" for "Prevailing rate of wage—Interstate System" in item 113 and "Construction by States in advance of apportionment" for "Construction by States in advance of apportionment—Interstate System" in item 115.

1966—Pub. L. 89-574, §§ 8(c)(2), 15(b), Sept. 13, 1966, 80 Stat. 769, 771, added items 137 and 138.

Pub. L. 89-564, title I, § 102(b)(1), Sept. 9, 1966, 80 Stat. 734, deleted item 135 relating to highway safety programs.

1965—Pub. L. 89-285, title I, § 102, title II, § 202, Oct. 22, 1965, 79 Stat. 1030, 1032, substituted "Control of outdoor advertising" for "Areas adjacent to the Interstate System" in item 131, and added item 136.

Pub. L. 89-139, § 4(b), Aug. 28, 1965, 79 Stat. 579, added item 135.

1962—Pub. L. 87-866, §§ 5(b), 9(b), Oct. 23, 1962, 76 Stat. 1147, 1148, added items 133 and 134.

1960—Pub. L. 86-657, §§ 4(b), 5(b), July 14, 1960, 74 Stat. 523, included ferries in item 129 and added item 132.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 215, 219, and 402 of this title.

§ 101. Definitions and declaration of policy

(a) As used in this title, unless the context requires otherwise—

The term "apportionment" in accordance with section 104 of this title includes unexpended apportionments made under prior acts.

The term "construction" means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including, locating, surveying, and mapping (including the establish-

ment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration in the Department of Commerce) resurfacing, restoration, and rehabilitation, acquisition of rights-of-way, relocation assistance, elimination of hazards of railway grade crossings, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing, and improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas.

The term "county" includes corresponding units of government under any other name in States which do not have county organizations, and likewise in those States in which the county government does not have jurisdiction over highways it may be construed to mean any local government unit vested with jurisdiction over local highways.

The term "forest road or trail" means a road or trail wholly or partly within or adjacent to and serving the national forests and other areas administered by the Forest Service.

The term "forest development roads and trails" means those forest roads or trails of primary importance for the protection, administration, and utilization of the national forest and other areas administered by the Forest Service or, where necessary, for the use and development of the resources upon which communities within or adjacent to the national forest and other areas administered by the Forest Service are dependent.

The term "forest highway" means a forest road which is of primary importance to the States, counties, or communities within, adjoining, or adjacent to the national forests, and which is on the Federal-aid system.

The term "highway" includes roads, streets, and parkways, and also includes rights-of-way, bridges, railroad-highway crossings, tunnels, drainage structures, signs, guardrails, and protective structures, in connection with highways. It further includes that portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State highway department including such facilities as may be required by the United States Customs and Immigration Services in connection with the operation of an international bridge or tunnel.

The term "Federal-aid highways" means highways located on one of the Federal-aid systems described in section 103 of this title.

The term "Indian reservation roads and bridges" means roads and bridges, including roads and bridges on the Federal-aid systems, that are located within or provide access to an Indian reservation or Indian trust land or restricted Indian land which is not subject to fee title alienation without the approval of the Federal Government, or Indian and Alaska Native villages, groups, or communities in which Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

The term "maintenance" means the preservation of the entire highway, including surface, shoulders, roadsides, structures and such traffic-control devices as are necessary for its safe and efficient utilization.

The term "park roads and trails" means those roads or trails, including the necessary bridges, located in national parks or monuments, now or hereafter established, or in other areas administered by the National Park Service of the Department of the Interior (excluding parkways authorized by Acts of Congress) and also including approach roads to national parks or monuments authorized by the Act of January 31, 1931 (46 Stat. 1053), as amended.

The term "parkway" as used in chapter 2 of this title, means a parkway authorized by an Act of Congress on lands to which title is vested in the United States.

The term "project" means an undertaking to construct a particular portion of a highway, or if the context so implies, the particular portion of a highway so constructed.

The term "project agreement" means the formal instrument to be executed by the State highway department and the Secretary as required by the provisions of subsection (a) of section 110 of this title.

The term "public lands development roads and trails" means those roads or trails which the Secretary of the Interior determines are of primary importance for the development, protection, administration, and utilization of public lands and resources under his control.

The term "public lands highways" means those main highways through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations, which are on the Federal-aid systems.

The term "public road" means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

The term "rural areas" means all areas of a State not included in urban areas.

The term "Secretary" means Secretary of Transportation.

The term "urbanized area" means an area so designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census.

The term "State" means any one of the fifty States, the District of Columbia, or Puerto Rico.

The term "State funds" includes funds raised under the authority of the State or any political or other subdivision thereof, and made available for expenditure under the direct control of the State highway department.

The term "State highway department" means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction.

The term "Federal-aid system" means any one of the Federal-aid highway systems described in section 103 of this title.

The term "Federal-aid primary system" means the Federal-aid highway system de-

scribed in subsection (b) of section 103 of this title.

The term "Federal-aid secondary system" means the Federal-aid highway system described in subsection (c) of section 103 of this title.

The term "Federal-aid urban system" means the Federal-aid highway system described in subsection (d) of section 103 of this title.

The term "Interstate System" means the National System of Interstate and Defense Highways described in subsection (e) of section 103 of this title.

The term "urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census, except in the case of cities in the State of Maine and in the State of New Hampshire.

(b) It is hereby declared to be in the national interest to accelerate the construction of the Federal-aid highway systems, including the National System of Interstate and Defense Highways, since many of such highways, or portions thereof, are in fact inadequate to meet the needs of local and interstate commerce, for the national and civil defense.

It is hereby declared that the prompt and early completion of the National System of Interstate and Defense Highways, so named because of its primary importance to the national defense and hereafter referred to as the "Interstate System", is essential to the national interest and is one of the most important objectives of this Act. It is the intent of Congress that the Interstate System be completed as nearly as practicable over the period of availability of the thirty-four years' appropriations authorized for the purpose of expediting its construction, reconstruction, or improvement, inclusive of necessary tunnels and bridges, through the fiscal year ending September 30, 1990, under section 108(b) of the Federal-Aid Highway Act of 1956 (70 Stat. 374), and that the entire system in all States be brought to simultaneous completion. Insofar as possible in consonance with this objective, existing highways located on an interstate route shall be used to the extent that such use is practicable, suitable, and feasible, it being the intent that local needs, to the extent practicable, suitable, and feasible, shall be given equal consideration with the needs of interstate commerce.

It is further declared that since the Interstate System is now in the final phase of completion it shall be the national policy that increased emphasis be placed on the construction and reconstruction of the other Federal-aid systems in accordance with the first paragraph of this subsection, in order to bring all of the Federal-aid systems up to standards and to increase the safety of these systems to the maximum extent.

(c) It is the sense of Congress that under existing law no part of any sums authorized to be appropriated for expenditure upon any Federal-aid system which has been apportioned pursuant to the provisions of this title shall be impounded or withheld from obligation, for purposes and projects as provided in this title, by any officer or employee in the executive branch of the Federal Government, except such specific sums as may be determined by the Secretary of the Treasury, after consultation with the Secretary of Transportation, are necessary to be withheld from obligation for specific periods of time to assure that sufficient amounts will be available in the Highway Trust Fund to defray the expenditures which will be required to be made from such fund.

(d) No funds authorized to be appropriated from the Highway Trust Fund shall be expended by or on behalf of any Federal department, agency, or instrumentality other than the Federal Highway Administration unless funds for such expenditure are identified and included as a line item in an appropriation Act and are to meet obligations of the United States heretofore or hereafter incurred under this title attributable to the construction of Federal-aid highways or highway planning, research, or development, or as otherwise specifically authorized to be appropriated from the Highway Trust Fund by Federal-aid highway legislation.

(e) It is the national policy that to the maximum extent possible the procedures to be utilized by the Secretary and all other affected heads of Federal departments, agencies, and instrumentalities for carrying out this title and any other provision of law relating to the Federal highway programs shall encourage the substantial minimization of paperwork and interagency decision procedures and the best use of available manpower and funds so as to prevent needless duplication and unecessary delays at all levels of government.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 885; Pub. L. 86-70, § 21(e)(1), June 25, 1959, 73 Stat. 146; Pub. L. 86-624, § 17(a), July 12, 1960, 74 Stat. 415; Pub. L. 87-866, § 6(a), Oct. 23, 1962, 76 Stat. 1147; Pub L. 88-423, § 3, Aug. 13, 1964, 78 Stat. 397; Pub. L. 89-574, § 4(a), Sept. 13, 1966, 80 Stat. 767; Pub. L. 90-495, §§ 4(a), 8, 15, Aug. 23, 1968, 82 Stat. 816, 819, 822; Pub L. 91-605, title I, §§ 104(a), 106(a), 107, 117(d), 130, 141, Dec. 31, 1970, 84 Stat. 1714, 1716, 1718, 1724, 1732, 1737; Pub. L. 93-87, title I, §§ 105, 106(a), 107, 108, 152(1), Aug. 13, 1973, 87 Stat. 253-255, 276; Pub. L. 93-643, 102(b), Jan. 4, 1975, 88 Stat. 2281; Pub. L. 94-280, title I, §§ 107(a), 108, May 5, 1976, 90 Stat. 430, 431.)

REFERENCES IN TEXT

The Act of January 31, 1931, (46 Stat. 1053), as amended, referred to in subsec. (a), is act Jan. 31, 1931, ch. 79, 46 Stat. 1053, as amended, which enacted sections 8a to 8c of Title 16, Conservation. For complete classification of this Act to the Code, see Tables volume.

This Act, referred to in subsec. (b), is Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 885, which revised, codified, and reenacted this title. For complete classification of this Act to the Code, see Tables volume.

Section 108(b) of the Federal-Aid Highway Act of 1956 (70 Stat. 374), referred to in subsec. (b), is section

108(b) of act June 29, 1956, ch. 462, 70 Stat. 378, which is set out as a note below.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-280, § 108, defined "construction" to include resurfacing, restoration, and rehabilitation and "urban area" to exclude cities in the States of Maine and New Hampshire and inserted definition of "public road".

Subsec. (b). Pub. L. 94-280, § 107(a), substituted provision for completion of the Interstate System over a thirty-four year period, through the fiscal year ending September 30, 1990, for a prior provision for such completion over a twenty-three period, through the fiscal year ending June 30, 1979.

1975—Pub. L. 93-643 defined "Indian reservation roads and bridges" to include roads and bridges on the Federal-aid systems.

1973—Subsec. (a). Pub. L. 93-87, § 105(1), in definition of "construction", substituted "National Oceanic and Atmospheric Administration" for "Coast and Geodetic Survey" and extended the definition to include improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas.

Pub. L. 93-87, § 105(3), in definition of "Indian reservation roads and bridges", substituted "approval of the Federal Government, or Indian and Alaska Native villages, groups, or communities in which Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians" for "approval of the Federal Government on which Indians reside whom the Secretary of the Interior has determined to be eligible for services generally available to Indians under Federal laws specifically applicable to Indians".

Pub. L. 93-87, § 152(1), in definition of "Secretary", substituted "Secretary of Transportation" for "Secretary of Commerce".

Pub. L. 93-87, § 105(4), in definition of "urbanized area", provided for boundaries of the "urbanized area" to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and required such boundaries, as a minimum, to encompass the entire urbanized area within a State as designated by the Bureau of the Census.

Pub. L. 93-87, § 105(2), in definition of "urban area", substituted "an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary" for "an area including and adjacent to a municipality or other urban place having a population of five thousand or more, as determined by the latest available Federal census, within boundaries to be fixed by a State highway department subject to the approval of the Secretary", and required such boundaries, as a minimum, to encompass the entire urban place designated by the Bureau of the Census.

Subsec. (b). Pub. L. 93-87, §§ 106(a), 107, extended time for completion of the National System of Interstate and Defense Highways, substituting in second par. "twenty-three years" and "June 30, 1979" for "twenty years" and "June 30, 1976", and added third par. declaratory of national policy, since the Interstate System is now in the final phase of completion, that increased emphasis be placed on the construction and reconstruction of the other Federal-aid systems in accordance with the first par. of subsec. (b), in order to bring all of the Federal-aid systems up to standards and to increase the safety of these systems to the maximum extent.

Subsec. (e). Pub. L. 93-87, § 108, added subsec. (e).

1970—Subsec. (a). Pub. L. 91-605, §§ 106(a), 117(d), 130, 141, inserted definitions of "urbanized area" and "Federal-aid urban system", substituted "subsection (e)" for "subsection (d)" in definition of "Interstate System", included within the costs of construction, under the definition of "construction", relocation assistance, acquisition of replacement housing sites, acquisition, and rehabilitation, relocation, and construction of replacement housing, and substituted "acquisition" for "costs" of rights-of-way, broadened definition of "Indian reservation roads and bridges" to include roads and bridges on State controlled Indian reservations, trust lands, and restricted Indian lands, a well as roads and bridges on such lands under Federal control, and added to the definitions of "forest highway" and "public lands highways" provisions to insure that these highways be on the Federal-aid systems.

Subsec. (b). Pub. L. 91-605, § 104(a), substituted "twenty years" for "eighteen years" and "June 30, 1976" for "June 30, 1974".

Subsec. (c). Pub. L. 91-605, § 107, substituted "any officer or employee in the executive branch of the Federal Government" for "any officer or employee of any department, agency, or instrumentality of the executive branch of the Federal Government" and "Highway Trust Fund" for "highway trust fund".

Subsec. (d). Pub. L. 91-605, § 107, substituted provisions prohibiting expenditure of funds from the Highway Trust Fund by any department other than the Federal Highway Administration unless these funds are identified and included as a line item in an appropriation Act and are to meet obligations incurred under this title attributable to the construction of Federal aid highways or for planning, research, or development, or as otherwise specifically authorized to be appropriated from the Highway Trust Fund by Federal-aid highway legislation for provisions expressing essentially the same prohibitions but permitting expenditures to meet obligations incurred under this title attributable to Federal-aid highways, and contracted for in accordance with the Act of March 4, 1915, as amended [section 686 of Title 31, Money and Finance], relating to work or services not usually performed by the Federal Highway Administration, or relating to the furnishing of materials, supplies or equipment, and expenditures specifically identified in the budget and included in an appropriation Act.

1968—Subsec. (a). Pub. L. 90-495, § 8, added "and other areas administered by the Forest Service" following "national forests" and "national forest" in the definitions of "forest road or trail" and "forest development roads and trails".

Subsec. (b). Pub. L. 90-495, § 4(a), substituted a reference to "eighteen years' appropriation" for reference to "sixteen years' appropriation" and substituted "June 30, 1974" for "June 30, 1972".

Subsecs. (c), (d). Pub. L. 90-495, § 15, added subsecs. (c) and (d).

1966—Subsec. (b). Pub. L. 89-574 substituted a reference to "sixteen years' appropriation" for reference to "fifteen years' appropriation" and substituted "June 30, 1972" for "June 30, 1971".

1964—Subsec. (b). Pub. L. 88-423 substituted "fifteen years" for "thirteen years" and "June 30, 1971" for "June 30, 1969".

1962—Subsec. (a). Pub. L. 87-866 inserted the definition of "public lands development roads and trails".

1960—Subsec. (a). Pub. L. 86-624 substituted "fifty States, the District of Columbia, or Puerto Rico" for "forty-nine States, the District of Columbia, Hawaii, or Puerto Rico" in the definition of "State".

1959—Subsec. (a). Pub. L. 86-70 substituted in the definition of "State" the words "forty-nine States, the District of Columbia, Hawaii" for "forty-eight States, the District of Columbia, Hawaii, Alaska".

CHANGE OF NAME

The Coast and Geodetic Survey was consolidated with the National Weather Bureau in 1965 to form the Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R.

8819, 79 Stat. 1318. The Environmental Science Services Administration was abolished in 1970 and its personnel, property, records, etc., were transferred to the National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat 2090. By order of the Acting Associate Administrator of the National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, the Coast and Geodetic Survey was redesignated the National Ocean Survey. See notes under section 311 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 37 of Pub. L. 90-495, as amended by Pub. L. 91-605, title I, § 120, Dec. 31, 1970, 84 Stat. 1725, provided that:

"(a) Except as otherwise provided in subsection (b) of this section, this Act and the amendments made by this Act [enacting sections 135, 139, 140, 141, and 501 to 511 of this title amending sections 101, 103, 104, 108, 112, 113, 115, 116, 120, 125, 128, 129, 131, 135, 136, 138, 205, 319, and 402 of this title, section 636 of Title 15 Commerce and Trade and section 1653 of Title 49, Transportation, repealing section 133 of this title, enacting provisions set out as notes under sections 101, 104, 108, 125, 134, 501, 502, and 510 of this title] shall take effect on the date of its enactment [Aug. 23, 1968], except that until July 1, 1970, sections 502, 505, 506, 507, and 508 of title 23, United States Code, as added by this Act, shall be applicable to a State only to the extent that such State is able under its laws to comply with such sections. Except as otherwise provided in subsection (b) of this section, after July 1, 1970, such sections shall be completely applicable to all States. Section 133 of title 23, United States Code, shall not apply to any State if sections 502, 505, 506, 507, and 508 of title 23, United States Code, are applicable in that State, and effective July 1, 1970, such section 133 is repealed.

"(b) In the case of any State (1) which is required to amend its constitution to comply with sections 502, 505, 506, 507, and 508 of title 23, United States Code, and (2) which cannot submit the required constitutional amendment for ratification prior to July 1, 1970, the date of July 1, 1970, contained in subsection (a) of this section shall be extended to July 1, 1972."

EFFECTIVE DATE OF 1959 AMENDMENT

Section 21(e) of Pub. L. 86-70 provided in part that the amendments of subsec. (a) of this section and sections 104(b), 116(a) and 120(a) of this title shall be effective on July 1, 1959.

EFFECTIVENESS OF 1970 AMENDMENT

Section 147 of Pub. L. 91-605 provided that: "The amendments made by section 117 [enacting section 510, amending section 101 of this title, and renumbering sections 511 and 512 of this title], 120 [amending note set out under section 502 of this title], and 137 of this Act [amending section 506 of this title] shall not take effect if before the effective date of this Act [Dec. 31, 1970] the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 has been enacted into law." The Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, enacted as Pub. L. 91-646, 84 Stat. 1894, was approved Jan. 2, 1971, whereas this Act (Title I of Pub. L. 91-605) was approved Dec. 31, 1970, therefore the amendments made by sections 117, 120, and 137 of Title I of Pub. L. 91-605 will take effect.

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-280, title I, § 101, May 5, 1976, 90 Stat. 425, provided that: "This title [consisting of sections 101 to 155, classified only in part to the Code as follows: enacting sections 103(e)(5), 117(f), 131(o) to (q), 152(f), 153(f), and 156 of this title; amending sections 101(a), (b), 103(e)(2), (4), 104(b) to (f), 106(c), 108(a), (c)(2), (3), 117(a), 118(b), 121(d), 125(a), (b), 127, 129(g)(5), 131(f), (i), 135, 138, 139(b), 140(b), 142(a)(1), (e)(3), 147(b), 202(a), 203, 217(e), 219, 319, and 320(d) of this title; repealing sections 146 and 405 of this title; enacting provisions set out as notes under sections 101, 103, 104, 124, 134, 135, 215, 218, 319, and 320 of this title and section 1605 of Title 49, Transportation; and amending provisions set out as notes under section 101, 120, 130, and 142 of this title and section 1605 of Title 49] may be cited as the 'Federal-Aid Highway Act of 1976'."

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93-643, 51, Jan. 4, 1975, 88 Stat. 2281, provided: "That this Act [which enacted sections 141, 154, 155, 219, and 406, amended sections 101, 103, 115, 127, 129, 131, 136, 144, 208, 320, 322, 323, and 405, enacted provisions set out as notes under sections 101, 142, 217, and 320, amended provisions set out as notes under sections 101, 130, and 142, and repealed provisions set out as a note under section 101 of this title] may be cited as the 'Federal-Aid Highway Amendments of 1974'."

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93-87, Title I, § 101, Aug. 13, 1973, 87 Stat. 250, provided that: "This title [Title I of Pub. L. 93-87, which enacted sections 145 to 150, 217, 218, 323, and 324 of this title and section 1602a of Title 49, Transportation, amended sections 101, 103 to 105, 108, 109, 114, 117, 121, 126, 129, 135, 140, 142, 143, 149, 207, 303, 307 to 310, 312, 314, and 320 of this title, and enacted provisions set out as notes under sections 101, 103, 104, 120, 130, 142, 218, 307, 319, and 320 of this title and sections 1608 and 1637 of Title 49] may be cited as the 'Federal-Aid Highway Act of 1973'."

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91-605, Title I, § 101, Dec. 31, 1970, 84 Stat. 1713, provided that: "This title [enacting sections 142, 143, 215, 216, 321, and 510 of this title, amending this section and sections 103, 104, 105, 106, 109, 120, 125, 128, 129, 131, 134, 135, 136, 139, 140, 303, 307, 320, 506, 511, 512 of this title and section 517 of Title 33, Navigation and Navigable Waters, and enacting material set out as notes under this section and sections 104, 120, 129, 131, 134, 215, 216, 303, 307, 320, and 510 of this title] may be cited as the 'Federal-Aid Highway Act of 1970'."

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90-495, § 1, Aug. 23, 1968, 82 Stat. 815, provided that: "This Act [enacting sections 135, 139, 140, and 141 of this title, amending sections 101, 101 note, 103, 104, 108, 112, 113, 115, 116, 120, 125, 128, 129, 131, 135, 136, 138, 205, 319, 402 and 501 to 512 of this title, section 636 of Title 15, Commerce and Trade, and section 1653 of Title 49, Transportation, repealing section 133 of this title and enacting provisions formerly set out as notes under sections 101, 104, 108, 125, 134, 501, 502, and 510 of this title] may be cited as the 'Federal-Aid Highway Act of 1968'."

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89-574, § 1, Sept. 13, 1966, 80 Stat. 766, provided that: "This Act [adding sections 120 and 138 of this title, amending sections 101, 104, 109, 118, 120, 125, 131, 136, 302, and 319 of this title, and enacting provisions set out as notes under sections 101, 106, 108, 125, 133, and 137 of this title] may be cited as the 'Federal-Aid Highway Act of 1966'."

SHORT TITLE OF 1965 AMENDMENT

Pub. L. 89-285, § 403, Oct. 22, 1965, 79 Stat. 1033 provided that: "This Act [enacting sections 136 of this title and provisions set out as notes under sections 131 and 135 of this title and amending sections 131 and 319 of this title] may be cited as the 'Highway Beautification Act of 1965'."

Short Title of 1964 Amendment

Pub. L. 88-423 § 1, Aug. 13, 1964, 78 Stat. 397, provided that Pub. L. 88-423, which in part amended this section and sections 104, 205, 209 and 320 of this title, may be cited as the "Federal-Aid Highway Act of 1964".

Short Title of 1963 Amendment

Pub. L. 88-157, § 1, Oct. 24, 1963, 77 Stat. 276, provided: "That this Act [amending sections 104(b)(3), (5), 106(c), 109(b), 121(d), 131(c) and 307(c)(1) of this title] may be cited as the 'Federal-Aid Highway Amendments Act of 1963'."

Short Title of 1962 Amendment

Pub. L. 87-866, 31, Oct. 23, 1962, 76 Stat. 1145, provided that Pub. L. 87-866, which in part enacted sections 133, 134 and 214 of this title, amended this section and sections 103, 104, 203 and 307 of this title and enacted provisions set out as a note under section 307 of this title, may be cited as the "Federal-Aid Highway Act of 1962".

Short Title of 1961 Amendment

Pub. L. 87-61, June 29, 1961, 75 Stat. 122, provided that Pub. L. 87-61, which enacted section 6156 of Title 26, Internal Revenue Code, amended sections 111, 131 and 210 of this title and sections 4041, 4061, 4071, 4081, 4218, 4221, 4226, 4481, 4482, 6412, 6416, 6421 and 6601 of title 26, enacted provisions set out as notes under this section and section 104 of this title and under section 4041 of title 26, and amended provisions set out as notes under sections 101 and 120 of this title, may be cited as the "Federal-Aid Highway Act of 1961".

Short Title of 1960 Amendment

Pub. L. 86-657, § 1, July 14, 1960, 74 Stat. 522, provided that Pub. L. 86-657, which is classified in part to sections 104, 114, 120, 129, 132, 203, 205, 210 and 305 of this title, may be cited as the "Federal Highway Act of 1960."

Short Title of 1959 Amendment

Pub. L. 86-342, title I, Sept. 21, 1959, 73 Stat. 611, provided that Pub. L. 86-342, which amended sections 125, 131, 137 and 320 of this title, and sections 4041, 4081, 4082, 4226, 6412, 6416 and 6421 of Title 26, Internal Revenue Code, enacted notes set out under section 307 of this title and section 4082 of title 26, and amended notes set out under sections 101, 104 and 120 of this title, may be cited as the "Federal-Aid Highway Act of 1959".

Transfer of Functions

All functions, powers, and duties of the Secretary of Commerce and other officers and offices of the Department of Commerce under this title and under specific related laws and parts of laws set out in the notes in this title relating generally to highways and highway and traffic safety were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

Separability of Provisions

Section 36 of Pub. L. 90-495 provided that: "If any provision of this Act (including the amendments made by this Act) [enacting sections 135, 139, 140, 141, and 501-511 of this title, amending sections 101, 101 note, 103, 104, 108, 112, 113, 115, 116, 120, 125, 128, 129, 131, 135, 136, 138, 205, 319 and 402 of this title, section 636 of Title 15, Commerce and Trade, and section 1653 of Title 49, Transportation, repealing section 133 of this title, and enacting provisions set out as notes under sections 101, 104, 108, 125, 134, 501, 502 and 510 of this title] or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to other persons or circumstances shall not be affected thereby."

Section 108(b) of the Federal-Aid Highway Act of 1956

Section 108(b) of act June 29, 1956, ch. 462, title I, 70 Stat. 378, as amended by Pub. L. 85-381, § 7(a), Apr. 16, 1958, 72 Stat. 93; Pub. L 86-342, title I, § 102, Sept. 21, 1959, 73 Stat. 611; Pub. L. 87-61, title I § 103, June 29, 1961, 75 Stat. 122; Pub. L. 89-139, § 1, Aug. 28, 1965, 79 Stat. 578; Pub. L. 89-574, § 2, Sept. 13, 1966, 80 Stat. 766; Pub. L. 90-495, § 2, Aug. 23, 1968, 82 Stat. 815; Pub. L. 91-605 title I, §§ 102, 106(b)(1), Dec. 31, 1970, 84 Stat. 1714, 1716; Pub. L. 93-87, title I, § 102. Aug. 13, 1973, 87 Stat. 250; Pub. L. 94-280, title I, § 102 (a), May 5, 1976, 90 Stat. 425, provided that: "For the purpose of expediting the construction, reconstruction, or improvement, inclusive of necessary bridges and tunnels, of the Interstate System, including extensions thereof through urban areas, designated in accordance with the provisions of subsection (e) of section 103 of title 23, United States Code, there is hereby authorized to be appropriated the additional sum of $1,000,000,000 for the fiscal year ending June 30, 1957, which sum shall be in addition to the authorization heretofore made for that year, the additional sum of $1,700,000,000 for the fiscal year ending June 30, 1958, the additional sum of $2,200,000,000 for the fiscal year ending June 30, 1959, the additional sum of $2,500,000,000 for the fiscal year ending June 30, 1960, the additional sum of $1,800,000,000 for the fiscal year ending June 30, 1961, the additional sum of $2,200,000,000 for the fiscal year ending June 30, 1962, the additional sum of $2,400,000,000 for the fiscal year ending June 30, 1963, the additional sum of $2,600,000,000 for the fiscal year ending June 30, 1964, the additional sum of $2,700,000,000 for the fiscal year ending June 30, 1965, the additional sum of $2,800,000,000 for the fiscal year ending June 30, 1966, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1967, the additional sum of $3,400,000,000 for the fiscal year ending June 30, 1968, the additional sum of $3,800,000,000 for the fiscal year ending June 30, 1969, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1970, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1971, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1972, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1973, the additional sum of $2,600,000,000 for the fiscal year ending June 30, 1974, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1975, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1976, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1977, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 197b, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1979, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1980, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1981, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1982, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1983, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1984, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1985, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1986, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1987, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1988, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1989, and the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1990. Nothing in this subsection shall be construed to authorize the appropriation of any sums to carry out sections 131, 136, or 319(b) of title 23, United States Code, or any provision of law relating to highway safety enacted after May 1, 1966."

INTERCITY PORTIONS OF INTERSTATE SYSTEM; CONSTRUCTION OF PROJECTS; REPORT TO CONGRESS; EXEMPTION

Section 102(b) of Pub. L. 94-280 provided that:

"At least 30 per centum of the apportionment made to each State for each of the fiscal years ending September 30, 1978, and September 30, 1979, of the sums authorized in subsection (a) of this section [amending section 108(b) of the Federal-Aid Highway Act of 1956, set out above] shall be expended by such State for projects for the construction of intercity portions (including beltways) which will close essential gaps in the Interstate System and provide a continuous System.

"(2) The Secretary of Transportation shall report to Congress before October 1, 1976, on those intercity portions of the Interstate System the construction of which would be needed to close essential gaps in the System.

"(3) A State which does not have sufficient projects to meet the 30 per centum requirement of paragraph (1) of this subsection may, upon approval of the Secretary of Transportation, be exempt from the requirements of such paragraph to the extent of such inability."

INTERSTATE SYSTEM; PROHIBITION OF OBLIGATION OF FUNDS FOR RESURFACING, RESTORATION, OR REHABILITATION PROJECTS

Section 102(c) of Pub. L. 94-280 provided that: "No part of the funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended [set out as a note under this section] for the Interstate System, shall be obligated for any project for resurfacing, restoring, or rehabilitating any portion of the Interstate System."

INTERSTATE FUNDING STUDY; REPORT AND RECOMMENDATIONS TO CONGRESS

Section 150 of Pub. L. 94-280 provided that:

"(a) The Secretary of Transportation is hereby directed to undertake a complete study of the financing of completion of the Interstate Highway System. Such study should identify and analyze optional financing methods including State bonding authority under which the Secretary contracts to reimburse the States for up to 90 per centum of the principal and interest on such bonds. The Secretary shall report to the Congress not later than nine months after the date of enactment of this Act [May 5, 1976] the results of the study.

"(b) Within one year of the date of enactment of this Act [May 5, 1976], the Secretary shall submit to the Congress his recommendations regarding the need to provide Federal financial assistance for resurfacing, restoration, and rehabilitation of routes on the Interstate System. In arriving at his recommendations, he shall conduct a full and complete study in cooperation and in consultation with the States of alternative means of assuring that the high level of transportation service provided by the Interstate System is maintained. The results of the study shall accompany the Secretary's recommendations. The study shall include an estimate of the cost of implementing any recommended programs as well as an analysis of alternative methods of apportioning such Federal assistance among the States."

STUDY OF HIGHWAY NEEDS TO SOLVE ENERGY PROBLEMS; INVESTIGATION AND STUDY; REPORT TO CONGRESS

Section 153 of Pub. L. 94-280 provided that:

"(a) The Secretary of Transportation shall make an investigation and study for the purpose of determining the need for special Federal assistance in the construction or reconstruction of highways on the Federal-aid system necessary for the transportation of coal or other uses in order to promote the solution of the Nation's energy problems. Such study shall include appropriate consultations with the Secretary of the Interior, the Administrator of the Federal Energy Administration, and other appropriate Federal and State officials.

"(b) The Secretary shall report the results of such investigation and study together with his recommendations, to the Congress not later than one year after the date of enactment of this Act [May 5, 1976].

"(c) In order to carry out the study, the Secretary is authorized to use such funds as are available to him for such purposes under section 104(a) of title 23, United States Code."

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION; ESTABLISHMENT; TERMINATION; ETC.

Section 154 of Pub. L. 94-280 provided that:

"(a)(1) There is hereby established a Commission to be known as the National Transportation Policy Study Commission, hereinafter referred to as the 'Commission'.

"(2) The Commission shall make a full and complete investigation and study of the transportation needs and of the resources, requirements, and policies of the United States to meet such expected needs. It shall take into consideration all reports on National Transportation Policy which have been submitted to the Congress including but not limited to the National Transportation Reports of 1972 and 1974. It shall evaluate the relative merits of all modes of transportation in meeting our transportation needs. Based on such study, it shall recommend those policies which are most likely to insure that adequate transportation systems are in place which will meet the needs for safe and efficient movement of goods and people.

"(b) Such Commission shall be comprised of 19 members as follows:

"(A) six members appointed by the President of the Senate from the membership of the Committee on Public Works, Committee on Commerce, and Committee on Banking, Housing and Urban Affairs of the United States Senate;

"(B) five members appointed by the Speaker of the House of Representatives from the membership of the Committee on Public Works and Transportation and one member appointed by the Speaker from the membership of the Committee on Interstate and Foreign Commerce; and

"(C) seven members of the public appointed by the President.

"(c) The Commission shall not later than December 31, 1978 submit to the President and the Congress its final report including its findings and recommendations. The Commission shall cease to exist six months after submission of such report. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

"(d) Such report shall include the Commission's findings and recommendations with respect to—

"(A) the Nation's transportation needs, both national and regional, through the year 2000;

"(B) the ability of our current transportation systems to meet the projected needs;

"(C) the proper mix of highway, rail, waterway, pipeline, and air transportation systems to meet anticipated needs;

"(D) the energy requirements and availability of energy to meet anticipated needs;

"(E) the existing policies and programs of the Federal government which affect the development of our national transportation systems; and

"(F) the new policies required to develop balanced national transportation systems which meet projected need.

"(e)(1) The Chairman of the Commission, who shall be elected by the Commission from among its members, shall request the head of each Federal department or agency which has an interest in or a responsibility with respect to a national transportation policy to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Commission and its staff in matters pertaining to this section. Such departments and agen-

cies shall include, but not be limited to, the Department of Transportation, the Federal Highway Administration, the Federal Railroad Administration, the Urban Mass Transportation Administration, the Federal Aviation Administration, the Interstate Commerce Commission, the Civil Aeronautics Board, and the U.S. Army Corps of Engineers.

"(2) In carrying out its duties the Commission shall seek the advice of various groups interested in national transportation policy including, but not limited to, State and local governments, public and private organizations working in the fields of transportation and safety, industry, education, and labor.

"(f)(1) The Commission or, on authorization of the Commission, any Committee of two or more members may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and places as the Commission or such authorized committee may deem advisable.

"(2) The Commission is authorized to secure from any department, agency, or individual instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this section and each department, agency, and instrumentality is authorized and directed to furnish such information to the Commission upon request made by the Chairman.

"(g)(1) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

"(2) Members of the Commission, except Members of Congress shall each receive compensation at a rate not in excess of the maximum rate of pay for GS–18, as provided in the General Schedule under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel expenses, per diem in accordance with the Rules of the House of Representatives or subsistence and other necessary expenses incurred by them in performance of duties while serving as a Commission Member.

"(h)(1) The Commission is authorized to appoint and fix the compensation of a staff director, and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to the provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege. In no event shall any employee other than the staff director receive as compensation an amount in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5, United States Code.

"(2) The staff director shall be compensated at a Level 2 of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

"(i) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this section to carry out such of its duties as the Commission determines can best be carried out in that manner.

"(j) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

"(k) There are hereby authorized to be appropriated not to exceed $15,000,000 to carry out this section. Funds appropriated under this section shall be available to the Commission until expended."

Consent of Governing Body for Expenditure of Funds

Section 102(d) of Pub. L. 93–643 provided that: "No funds appropriated under the expanded definition of this section [subsec. (a) of this section] shall be expended without the formal consent of the governing body of the tribe band or group of Indians or Alaskan Natives for whose use the Indian reservation roads and bridges are intended."

Carpool Demonstration Projects in Urban Areas; Appropriations Authorization

Section 120(b) of Pub. L. 93–643 provided that: "The Secretary of Transportation is authorized to make grants for demonstration projects designed to encourage the use of carpools in urban areas. Such a project may include, but not be limited to, such measures as systems for locating potential riders and informing them of convenient carpool opportunities, designating existing highway lanes as preferential carpool highway lanes or shared bus and carpool lanes, providing related traffic control devices, and designating existing publicly owned facilities for use as preferential parking for carpools. There is authorized to be appropriated not to exceed $7,500,000 to carry out this subsection."

Emergency Highway Energy Conservation

Pub. L. 93–239, §§ 1–3, Jan. 2, 1974, 87 Stat. 1046, as amended by Pub. L. 93–643, §§ 114(c), 120(a), Jan. 4, 1975, 88 Stat. 2286, 2289; Pub. L. 94–280, title I, § 143, May 5, 1976, 90 Stat. 445, provided that:

"[Section 1. Short title]. That this Act be cited as the 'Emergency Highway Energy Conservation Act'.

"Sec. 2. [Repealed. Pub. L. 93–643, § 114(c), Jan. 4, 1975, 88 Stat. 2086.]

"Sec. 3. [Carpool demonstration projects in urban areas; funding; scope; chapter 1 provisions applicable; Federal share; termination; investigation; studies; barriers; report to Congress]. (a) To conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary of Transportation is authorized to approve demonstration projects designed to encourage the use of carpools in urban areas. For the purposes of this section, the term 'carpool' includes a vanpool.

"(b) Proposals shall be originated by local officials and submitted by the State in accordance with the provisions of section 105(d) of title 23, United States Code. The Secretary of Transportation shall approve for funding those projects which offer reasonable prospects of achieving the objectives set forth in subsection (a) of this section.

"(c) A project may include, but not be limited to, such measures as providing carpooling opportunities to the elderly and the handicapped, systems for locating potential riders and informing them of convenient carpool opportunities, acquiring vehicles appropriate for carpool use, designating existing highway lanes as preferential carpool highway lanes or shared bus and carpool lanes, providing related traffic control devices, and designating existing publicly owned facilities for use as preferential parking for carpools.

"(d) A project authorized by this section shall be subject to, and carried out in accordance with all of the provisions of chapter 1 of title 23, United States Code, applicable to highway projects, except that the Federal share of such project shall be 90 per centum, the Federal share shall not exceed $1,000,000 for any single project, and only funds apportioned under section 104(b)(1) and (6) of such title shall be available to carry out projects authorized by this section.

"(e) The Secretary of Transportation shall conduct a full investigation of the effectiveness of measures employed in the demonstration projects authorized by subsection (a) of this section. In addition, he shall, in cooperation with the Internal Revenue Service, the Environmental Protection Agency, and other appropriate Federal and State agencies, study other measures, including but not limited to tax and other economic incentives, which might lead to significant increases in carpool ridership in urban areas throughout the country, and shall identify any institutional or legal barriers to such measures and the costs and benefits of such measures. He shall report to the Congress not later than December 31, 1974, his findings, conclusions, and recommendations resulting from such investigation and study. Funds authorized to carry out section 307 of title 23, United States Code, are authorized to be used to carry out the investigation and study authorized by this subsection.

"Section 4 of Pub. L. 93-239 amended section 601(d) of Federal Aviation Act of 1958, as amended [section 1421(d) of Title 49, Transportation], relating to emergency locator transmitters."

FUTURE HIGHWAY NEEDS: REPORTS TO CONGRESS

Section 121 of Pub. L. 91-605 provided that:

"(a) The Secretary of Transportation shall develop and include in the report of Congress required to be submitted in January 1972, by section 3 of the Act of August 28, 1965 (79 Stat. 578; Public Law 89-139) [set out as a note below], specific recommendations for the functional realinement of the Federal-aid systems. These recommendations shall be based on the functional classification study made in cooperation with the State highway departments and local governments as required by the Federal-Aid Highway Act of 1968 [see section 17 of Pub. L. 90-495, set out as a note below] and submitted to the Congress in 1970, and the functional classification study now underway of the Federal-aid systems in 1990.

"(b) As a part of the future highway needs report to be submitted to Congress in January 1972, the Secretary shall also make recommendations to the Congress for a continuing Federal-aid highway program for the period 1976 to 1990. The needs estimates to be used in developing such programs shall be in conformance with the functional classification studies referred to in subsection (a) of this section and the recommendations for the functional realinement required by such subsection.

"(c) The recommendations required by subsections (a) and (b) of this section shall be determined on the basis of studies now being conducted by the Secretary in cooperation with the State highway departments and local governments, and, in urban areas of more than fifty thousand population, utilizing the cooperative continuing comprehensive transportation planning process conducted in accordance with section 134 of title 23, United States Code. The highway needs estimates prepared by the States in connection with this report to Congress shall be submitted to Congress by the Secretary, together with his recommendations.

"(d) As a part of the future highway needs report to be submitted to Congress on January 1972, the Secretary shall report to Congress the Federal-aid urban system as designated, and the cost of its construction."

Pub. L. 90-495, § 17, Aug. 23, 1968, 82 Stat. 823, provided that: "The Secretary of Transportation shall, in the report to Congress required to be submitted by January 1970 by section 3 of the Act of August 28, 1965 (79 Stat. 578; Public Law 89-139) [set out as a note below], include the results of a systematic nationwide functional highway classification study to be made in cooperation with the State highway departments and local governments with particular attention to the establishment of highway system categories, rural and urban, according to the functional importance of routes, desirable as one of the bases for realigning Federal highway programs to better meet future needs and priorities."

Pub. L. 89-139, § 3, Aug. 28, 1965, 79 Stat. 578, provided that: "It is the sense of Congress that the Secretary of Commerce [Transportation], acting under authority of existing law and through the Bureau of Public Roads, shall report to Congress in January, 1968, and in January of every second year thereafter, his estimates of the future highway needs of the nation."

STUDIES OF NEED FOR AND SURVEY OF HIGHWAY CONSTRUCTION PROGRAMS FOR GUAM, AMERICAN SAMOA, AND THE VIRGIN ISLANDS

Pub. L. 90-495, § 29, Aug. 23, 1968, 82 Stat. 830, directed the Secretary of Transportation, in cooperation with the government of Guam, the government of American Samoa, and the government of the Virgin Islands, to make studies of the need for, and estimates and planning surveys relative to, highway construction programs for Guam, American Samoa, and the Virgin Islands. The Secretary of Transportation was required to submit a report to the Congress on or before April 1, 1969.

Pub. L. 89-574, § 13, Sept. 13, 1966, 80 Stat. 770, directed the Secretary of Commerce, in cooperation with the government of Guam, the government of American Samoa, and the government of the Virgin Islands to make studies of the need for, and estimates and planning surveys relative to, highway construction programs for Guam, American Samoa, and the Virgin Islands. The Secretary of Commerce was required to submit a report to the Congress on or before July 1, 1967.

REPORT AND RECOMMENDATIONS OF SECRETARY OF COMMERCE

Section 5 of Pub. L. 85-767 directed the Secretary of Commerce to submit to the Congress not later than February 1, 1959, a report on the progress made in attaining the objectives set forth in this section, together with recommendations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 460*l*-6a.

§ 102. Authorizations

The provisions of this title apply to all unappropriated authorizations contained in prior Acts, and also to all unexpended appropriations, heretofore made, providing for the expenditure of Federal funds upon the Federal-aid systems. All such authorizations and appropriations shall continue in full force and effect, but hereafter obligations entered into and expenditures made pursuant thereto shall be subject to the provisions of this title.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 887.)

§ 103. Federal-aid systems

(a) For the purposes of this title, the four Federal-aid systems, the primary system, the urban system, the secondary system, and the Interstate System, are established and continued pursuant to the provisions of this section.

(b)(1) The Federal-aid primary system shall consist of an adequate system of connected main highways, selected or designated by each State through its State highway department, subject to the approval of the Secretary as provided by subsection (f) of this section. This system shall not exceed 7 per centum of the total highway mileage of such State, exclusive of mileage within national forests, Indian, or other Federal reservations and within urban areas, as shown by the records of the State highway department of November 9, 1921.

Whenever provision has been made by any State for the completion and maintenance of 90 per centum of its Federal-aid primary system, as originally designated, said State through its State highway department by and with the approval of the Secretary is authorized to increase the mileage of its Federal-aid primary system by additional mileage equal to not more than 1 per centum of the total mileage of said State as shown by the records on November 9, 1921. Thereafter, it may make like 1 per centum increases in the mileage of its Federal-aid primary system whenever provision has been made for the completion and maintenance of 90 per centum of the entire system, including the additional mileage previously authorized. This system may be located both in rural and urban areas. The mileage limitations in this paragraph shall not apply to the District of Columbia, Hawaii, Alaska, or Puerto Rico.

(2) After June 30, 1976, the Federal-aid primary system shall consist of an adequate system of connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas. The Federal-aid primary system shall be designated by each State acting through its State highway department and where appropriate, shall be in accordance with the planning process pursuant to section 134 of this title, subject to the approval of the Secretary as provided by subsection (f) of this section.

(c)(1) The Federal-aid secondary system shall be selected by the State highway departments and the appropriate local road officials in cooperation with each other, subject to approval by the Secretary as provided in subsection (f) of this section. In making such selections, farm-to-market roads, rural mail routes, public school bus routes, local rural roads, access roads to airports, county roads, township roads, and roads of the county road class may be included, so long as they are not on the Federal-aid primary system or the Interstate System. This system may be located both in rural and urban areas, but any extension of the system into urban areas shall be subject to the condition that such extension pass through the urban area or connect with another Federal-aid system within the urban area.

(2) After June 30, 1976, the Federal-aid secondary system shall consist of rural major collector routes. The Federal-aid secondary system shall be designated by each State through its State highway department and appropriate local officials in cooperation with each other, subject to the approval of the Secretary as provided in subsection (f) of this section.

(d)(1) The Federal-aid urban system shall be established in each urbanized area, and in such other urban areas as the State highway department may designate. The system shall be so located as to serve the major centers of activity, and shall include high traffic volume arterial and collector routes, including access roads to airports and other transportation terminals. No route on the Federal-aid urban system shall also be a route on any other Federal-aid system. Each route of the system to the extent feasible shall connect with another route on a Federal-aid system. Routes on the Federal-aid urban system shall be selected by the appropriate local officials so as to serve the goals and objectives of the community, with the concurrence of the State highway departments, and, in urbanized areas, also in accordance with the planning process under section 134 of this title. Designation of the Federal-aid urban system shall be subject to the approval of the Secretary as provided in subsection (f) of this section. The provisions of chapters 1, 3, and 5 of this title that are applicable to Federal-aid primary highways shall apply to the Federal-aid urban system except as determined by the Secretary to be inconsistent with this subsection.

(2) After June 30, 1976, the Federal-aid urban system shall be located in each urbanized area and such other urban areas as the State highway departments may designate and shall consist of arterial routes and collector routes, exclusive of urban extensions of the Federal-aid primary system. The routes on the Federal-aid urban system shall be designated by appropriate local officials, with the concurrence of the State highway departments, subject to the approval of the Secretary as provided in subsection (f) of this section, and in the case of urbanized areas shall also be in accordance with the planning process required pursuant to the provisions of section 134 of this title.

(e)(1) The Interstate System shall be designated within the United States, including the District of Columbia, and, except as provided in paragraphs (2) and (3) of this subsection, it shall not exceed forty-one thousand miles in total extent. It shall be so located as to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers, to serve the national defense, and to the greatest extent possible, to connect at suitable border points with routes of continental importance in the Dominion of Canada and the Republic of Mexico. The routes of this system, to the greatest extent possible, shall be selected by joint action of the State highway departments of each State and the adjoining States, subject to the approval by the Secretary as provided in subsection (f) of this section. All highways or routes included in the Interstate System as finally approved, if not already coincident with the primary system, shall be added to said system without regard to the mileage limitation set forth in subsection (b) of this section. This system may be located both in rural and urban areas.

(2) In addition to the mileage authorized by the first sentence of paragraph (1) of this subsection, there is hereby authorized additional mileage for the Interstate System of five hundred miles, to be used in making modifications or revisions in the Interstate System as provided in this paragraph. Upon the request of a State highway department the Secretary may withdraw his approval of any route or portion thereof on the Interstate System within that State selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System (including urban routes necessary for metropolitan transportation) and will not be constructed as a part of the Interstate System, and if he receives assurances that the State does not intend

to construct a toll road in the traffic corridor which would be served by such route or portion thereof. After the Secretary has withdrawn his approval of any such route or portion thereof the mileage of such route or portion thereof and the additional mileage authorized by the first sentence of this paragraph shall be available for the designation of interstate routes or portions thereof as provided in this subsection. The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph, except that the cost to the United States of the aggregate of all mileage designated under the third sentence of this paragraph shall not exceed the cost to the United States of the aggregate of all mileage approval for which is withdrawn under the second sentence of this paragraph, as such cost is included in the 1972 Interstate System cost estimate set forth in House Public Works Committee Print Numbered 92-29, as revised in House Report Numbered 92-1443, or if the cost of any such withdrawn route was not included in such 1972 Interstate System cost estimate, the cost of such withdrawn route as set forth in the last Interstate System cost estimate before such 1972 cost estimate which was approved by Congress and which included the cost of such withdrawn route, increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof, which, (i) in the case of a withdrawn route the cost of which was not included in the 1972 cost estimate but in an earlier cost estimate, have occurred between such earlier cost estimate and the date of enactment of the Federal-Aid Highway Act of 1976, and (ii) in the case of a withdrawn route the cost of which was included in the 1972 cost estimate, have occurred between the 1972 cost estimate and the date of enactment of the Federal-Aid Highway Act of 1976, or the date of withdrawal of approval, whichever date is later, and in each case costs shall be based on that design of such route or portion thereof which is the basis of the applicable cost estimate. In considering routes or portions thereof to be added to the Interstate System under the third sentence of this paragraph, the Secretary shall, in consultation with the States and local governments concerned, give preference, along with due regard for interstate highway type needs on a nationwide basis, to (A) routes or portions thereof in States in which the Secretary has heretofore or hereafter withdrawn his approval of other routes or portions thereof, and (B) the extension of routes which terminate within municipalities served by a single interstate route, so as to provide traffic service entirely through such municipalities.

(3) In addition to the mileage authorized by paragraphs (1) and (2) of this subsection, there is hereby authorized additional mileage of not to exceed 1,500 miles for the designation of routes in the same manner as set forth in paragraph (1), in order to improve the efficiency and service of the Interstate System to better accomplish the purposes of that System.

(4) Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System which is within an urbanized area or which passes through and connects urbanized areas within a State and which was selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof. When the Secretary withdraws his approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the latest Interstate System cost estimate approved by Congress, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of enactment of the Federal-Aid Highway Act of 1976 or the date of approval of each substitute project under this paragraph, whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost estimate, shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or projects authorized under any highway assistance program under section 103 of this title; or both, which will serve the urbanized area and the connecting nonurbanized area corridor from which the Interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area or area to be served, and which are submitted by the Governor of the State in which the withdrawn route was located. Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of the substitute projects shall be determined in accordance with the provisions of section 120 of this title applicable to the highway program of which the substitute project is a part, except that in the case of mass transit projects, the Federal share shall be that specified in section 4 of the Urban Mass Transportation Act of 1964, as amended. The sums available for obligation shall remain available until obligated. The sums obligated for mass transit projects shall become part of, and be administered through, the Urban Mass Transportation Fund. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph such sums as may be necessary out of the general fund of the Treasury. Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all Interstate routes in that State as reflected in the latest cost estimate approved by the Congress. In any State where the withdrawal of an Interstate route or portion thereof has been approved under sec-

tion 103(e)(4) of this title prior to the date of enactment of the Federal-Aid Highway Act of 1976, the unobligated apportionments for the Interstate System in that State on the date of enactment of the Federal-Aid Highway Act of 1976 shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown on the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all Interstate routes in that State, as shown on such cost estimate, except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph prior to enactment of such Federal-Aid Highway Act. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended. The provisions of this paragraph as amended by the Federal-Aid Highway Act of 1976, shall be effective as of August 13, 1973. In the event a withdrawal of approval is accepted pursuant to this section, the State shall not be required to refund to the Highway Trust Fund any sums previously paid to the State for the withdrawn route or portion of the Interstate System as long as said sums were applied to a transportation project permissible under this title.

(5) Interstate mileage authorized for any State and withdrawn and transferred under the provisions of paragraph (2) of this subsection after the date of enactment of the Federal-Aid Highway Act of 1976, must be constructed by the State receiving such mileage as part of its Interstate System. Any State receiving such transfer of mileage may not, with respect to that transfer, avail itself of the optional use of Interstate funds under the second sentence of paragraph (4) of this subsection.

(f) The Secretary shall have authority to approve in whole or in part the Federal-aid primary system, the Federal-aid secondary system, the Federal-aid urban system, and the Interstate System, as and when such systems or portions thereof are designated, or to require modifications or revisions thereof. No Federal-aid system or portion thereof shall be eligible for projects in which Federal funds participate until approved by the Secretary.

(g) The Secretary, on July 1, 1974, shall remove from designation as a part of the Interstate System each segment of such system for which a State has not notified the Secretary that such State intends to construct such segment, and which the Secretary finds is not essential to completion of a unified and connected Interstate System. Any segment of the Interstate System, with respect to which a State has not submitted by July 1, 1975, a schedule for the expenditure of funds for completion of construction of such segment or alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met, shall be removed from designation as a part of the Interstate System. No segment of the Interstate System removed under the authority of the preceding sentence shall thereafter be designated as a part of the Interstate System except as the Secretary finds necessary in the interest of national defense or for other reasons of national interest. This subsection shall not be applicable to any segment of the Interstate System referred to in section 23(a) of the Federal-Aid Highway Act of 1968.

(h) Notwithstanding subsections (e)(2) and (g) of this section, in any case where a segment of the Interstate System was a designated part of such System on June 1, 1973, and is entirely within the boundaries of an incorporated city and such city enters into an agreement with the Secretary to pay all non-Federal costs of construction of such segment, such segment shall be constructed.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 887; Pub. L. 86-70, § 21(d)(1), June 25, 1959, 73 Stat. 145; Pub. L. 86-624, § 17(b), (c), July 12, 1960, 74 Stat. 415; Pub. L. 87-866, § 8(a), Oct. 23, 1962, 76 Stat. 1147; Pub. L. 90-238, Jan. 2, 1968, 81 Stat. 772; Pub. L. 90-495, §§ 14, 21, Aug. 23, 1968, 82 Stat. 822, 826; Pub. L. 91-605, title I, §§ 106(b), 124, Dec. 31, 1970, 84 Stat. 1716, 1729; Pub. L. 93-87, title I, §§ 109(a), 110(a), (b), 137, 148(a)-(c), (e), Aug. 13, 1973, 87 Stat. 255, 256, 268, 274; Pub. L. 93-643, § 125, Jan. 4, 1975, 88 Stat. 2290; Pub. L. 94-280, title I, §§ 109, 110, 111(a), May 5, 1976, 90 Stat. 431, 433.)

REFERENCES IN TEXT

Date of enactment of the Federal-Aid Highway Act of 1976, referred to in subsec. (e)(2), (4), (5), refers to May 5, 1976, date of approval of title I of Pub. L. 94-280.

Section 103(e)(4) of this title prior to date of enactment of Federal-Aid Highway Act of 1976, and this paragraph prior to enactment of such Federal-Aid Highway Act, referred to in subsec. (e)(4), refer to provisions of subsec. (e)(4) of this section prior to amendment by section 110 of Pub. L. 94-280, such provisions now set out as a note below.

The Urban Mass Transportation Act of 1964, as amended, referred to in subsec. (e)(4), is Pub. L. 88-365, July 9, 1964, 78 Stat. 302, as amended, which is classified generally to chapter 21 (§ 1601 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 49 and Tables volume.

Section 4 of the Urban Mass Transportation Act of 1964, as amended, referred to in subsec. (e)(4), is classified to section 1603 of Title 49, Transportation.

The Federal-Aid Highway Act of 1968, referred to in subsec.(g), is Pub. L. 90-495, Aug 23, 1968, 82 Stat. 815. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 101 of this title and Tables volume. Section 23(a) of the Federal-Aid Highway Act of 1968 related to the District of Columbia and appears as a note under D.C. Code § 7-135.

AMENDMENTS

1976—Subsec. (e)(2). Pub. L. 94-280, §§ 109(a), 111(a), deleted from second sentence "prior to the enactment of this paragraph" following "with this title," and in fourth sentence, substituted provision respecting limitation of cost to United States for aggregate of mileage for route withdrawals reading "or if the cost of any such withdrawn route was not included in such 1972 Interstate System cost estimate, the cost of such withdrawn route as set forth in the last Interstate System cost estimate before such 1972 cost estimate

which was approved by Congress and which included the cost of such withdrawn route, increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof, which, (i) in the case of a withdrawn route the cost of which was not included in the 1972 cost estimate but in an earlier cost estimate, have occurred between such earlier cost estimate and the date of enactment of the Federal-Aid Highway Act of 1976, and (ii) in the case of a withdrawn route the cost of which was included in the 1972 cost estimate, have occurred between the 1972 cost estimate and the date of enactment of the Federal-Aid Highway Act of 1976, or the date of withdrawal of approval, whichever date is later, and in each case costs shall be based on that design of such route or portion thereof which is the basis of the applicable cost estimate" for "increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof as of the date of withdrawal of approval under this paragraph and in accordance with that design of such route or portion thereof which is the basis of such 1972 cost estimate."

Subsec. (e)(4). Pub. L. 94-280, § 110(a), in revising par. (4), substituting provisions set out in text for prior provisions set out in note hereunder, among other changes: authorized the Secretary to withdraw approval of route or portion thereof on Interstate System which passes through and connects urbanized areas within a State and to incur obligations for Federal share of projects authorized under any highway assistance program under section 103 of this title; provided for determination of Federal share of substitute projects as provided in section 120 of this title applicable to the highway program of which the substitute project is a part; made specific reference to section 4 of, for prior general reference to, Urban Mass Transportation Act of 1964, as source of Federal share for mass transit projects; authorized sums available for obligation to remain available until obligated; made sums obligated for mass transit projects part of, to be administered through, Urban Mass Transportation Fund; authorized appropriations out of general fund of the Treasury for liquidation of obligations incurred under this paragraph; made amended par. (4) effective Aug. 13, 1973; and deleted provisions making route withdrawn mileage available for designation on Interstate System in any other State, prohibition against obligation under this paragraph of general funds after June 30, 1981, and requirement that for nonhighway public mass transit project, the Secretary receive State assurance that public mass transportation system will fully utilize the proposed project.

Pub. L. 94-280, § 110(b), added provision for application of sums to a permissible transportation project when paid to a State for a route or portion of the Interstate System in event of withdrawal of approval for the route or portion instead of making of refund to Highway Trust Fund.

Subsec. (e)(5). Pub. L. 94-280, § 109(b), added par. (5).

1975—Subsecs. (e)(2), (4). Pub. L. 93-643 inserted after "House Report Numbered 92-1443" text reading ", increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof as of the date of withdrawal of approval under this paragraph and in accordance with that design of such route or portion thereof which is the basis of such 1972 cost estimate".

1973—Subsec. (b). Pub. L. 93-87, § 148(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(1). Pub. L. 93-87, § 148(b), (e), designated existing provisions as par. (1) and inserted "access roads to airports," after "local rural roads.".

Subsec. (c)(2). Pub. L. 93-87, § 148(b), added par. (2).

Subsec. (d)(1). Pub. L. 93-87, §§ 109(a), 148(c), authorized establishment of Federal-aid urban system in such other urban areas as the State highway department may designate, substituted "shall include high traffic volume arterial and collector routes, including access roads to airports and other transportation terminals" for "designed taking into consideration the highest traffic volume corridors, and the longest trips within such area and shall be selected so as to best serve the goals and objectives of the community as determined by the responsible local officials of such urbanized area based upon the planning process required pursuant to the provisions of section 134 of this title", reenacted third sentence without change, inserted "to the extent feasible" in the text reading "Each route of the system to the extent feasible shall connect with another route", substituted "Routes . . . shall be selected by the appropriate local officials so as to serve the goals and objectives of the community, with the concurrence of the State highway departments, and, in urbanized areas, also in accordance with the planning process under section 134 of this title" for "Routes . . . shall be selected by the appropriate local officials and the State highway departments in cooperation with each other subject to the approval of the Secretary as provided in subsection (f) of this section", and inserted preceding last sentence the text reading "Designation of the Federal-aid urban system shall be subject to the approval of the Secretary as provided in subsection (f) of this section", and designated the provisions, as amended, as par. (1), respectively.

Subsec. (d)(2). Pub. L. 93-87, § 148(c), added par. (2).

Subsec. (e)(2). Pub. L. 93-87, § 137(a), substituted in first sentence "additional mileage for the Interstate System of five hundred miles" for "additional mileage for the Interstate System of two hundred miles"; in fourth sentence "1972 Interstate System cost estimate set forth in House Public Works Committee Print Numbered 92-29, as revised in House Report Numbered 92-1443" for "1968 Interstate System cost estimate set forth in House Document Numbered 199, Ninetieth Congress, as revised"; and in fifth sentence "preference, along with due regard for interstate highway type needs on a nationwide basis," for "due regard", respectively.

Subsec. (e)(4). Pub. L. 93-87, § 137(b), added par. (4).

Subsec. (g). Pub. L. 93-87, § 110(a), substituted first sentence reading "the Secretary, on July 1, 1974, shall remove from designation as a part of the Interstate System each segment of such system for which a State has not notified the Secretary that such State intends to construct such segment, and which the Secretary finds is not essential to completion of a unified and connected Interstate System." for "The Secretary, on July 1, 1973, shall remove from designation as a part of the Interstate System every segment of such System for which a State has not established a schedule for the expenditure of funds for completion of construction of such segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met."; deleted former second sentence reading "Nothing in the preceding sentence shall be construed to prohibit the substitution prior to July 1, 1973, of alternative segments of the Interstate System which will meet the requirements of this title."; substituted "Any segment of the Interstate System, with respect to which a State has not submitted by July 1, 1975, a schedule for the expenditure of funds for completion of construction of such segment or alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him such schedule will be met," for "Any segment of the Interstate System with repect to which a State has not submitted plans, specifications, and estimates for approval by the Secretary by July 1, 1975," preceding "shall be removed from designation as a part of the Interstate System"; authorized the Secretary to designate as a part of the Interstate System any segment previously removed from the System

when necessary in the interest of national defense or for other reasons of national interest; and made subsec. (g) inapplicable to any segment of the Interstate System referred to in section 23(a) of the Federal-Aid Highway Act of 1968.

Subsec. (h). Pub. L. 93-87, § 110(b), added subsec. (h).

1970—Subsec. (a). Pub. L. 91-605, § 106(b)(3), substituted "four" for "three" and added the urban system to the list of Federal-aid systems.

Subsec. (b). Pub. L. 91-605, § 106(b)(1), substituted "subsection (f)" for "subsection (e)".

Subsec. (c). Pub. L. 91-605, § 106(b)(1), substituted "subsection (f)" for "subsection (e)".

Subsec. (d). Pub. L. 91-605, § 106(b)(1), added subsec. (d). Former subsec. (d) redesignated subsec. (e).

Subsec. (e). Pub. L. 91-605, § 106(b)(1), redesignated former subsec. (d) as subsec. (e) and as so redesignated substituted "subsection (f)" for "subsection (e)". Former subsec. (e) redesignated subsec. (f).

Subsec. (f). Pub. L. 91-605, § 106(b)(1), (2), redesignated former subsec. (e) as subsec. (f) and as so redesignated added reference to Federal-aid urban system.

Subsec. (g). Pub. L. 91-605, § 124, added subsec. (g).

1968—Subsec. (d)(1). Pub. L. 90-495, § 14(a), inserted provision making allowance for an exception in pars. (2) and (3) to the forty-one thousand mile total extent of the Interstate system.

Subsec. (d)(2). Pub. L. 90-495, § 21, substituted "1968 Interstate System cost estimate set forth in House Document Numbered 199, Ninetieth Congress, as revised" for "1965 Interstate System cost estimate set forth in House Document Numbered 42, Eighty-ninth Congress".

Subsec. (d)(3). Pub. L. 90-495, § 14(b), added subsec. (d)(3).

Subsec. (d). Pub. L. 90-238 redesignated existing provision as par. (1) and added par. (2).

1962—Subsec. (c). Pub. L. 87-866 substituted "This system may be located both in rural and urban areas, but any extension of the system into urban areas shall be subject to the condition that such extension pass through the urban area or connect with another Federal-aid system within the urban area" for "This system shall be confined to rural areas, except (1) that in any State having a population density of more than two hundred per square mile as shown by the latest available Federal census, the system may include mileage in urban areas as well as rural, and (2) that the system may be extended into urban areas subject to the conditions that any such extension passes through the urban area or connects with another Federal-aid system within the urban area, and that Federal participation in projects on such extensions is limited to urban funds".

1960—Subsec. (d). Pub. L. 86-624, § 17(c), substituted "within the United States, including the District of Columbia, and" for "within the continental United States and", and inserted words "to the greatest extent possible" in two instances.

1959—Subsec. (f). Pub. L. 86-70 repealed subsec. (f) which related to determination of roads in the Territory of Alaska on which Federal-aid funds could be expended.

Subsec. (g). Pub. L. 86-624, § 17(b), repealed subsec. (g), which provided that the systems of highways on which funds apportioned to the Territory of Hawaii under this chapter shall be expended may be determined and agreed upon by the Governor of said Territory and the Secretary.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 110(c) of Pub. L. 93-87 provided that: "The amendments made by subsections (a) and (b) of this section [amending subsec. (g) and enacting subsec. (h) of this section] shall take effect June 30, 1973."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 8(b) of Pub. L. 87-866 provided that: "The amendment made by subsection (a) of this section [to subsec. (c) of this section] shall apply to apportionments made before as well as after the date of enactment of this Act [Oct. 23, 1962]."

EFFECTIVE DATE OF 1959 AMENDMENT

Section 21(d) of Pub. L. 86-70 provided in part that the repeal of subsec. (f) of this section and sections 116(d), 119 and 120(h) of this title, and sections 321a to 321d, and 322 to 325 of Title 48, Territories and Insular Possessions, shall be effective July 1, 1959.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

INTERSTATE SYSTEM ROUTES WITHDRAWN FOR PURPOSE OF DESIGNATING ALTERNATIVE ROUTES AS SUBJECT TO ROUTE WITHDRAWAL PROVISIONS

Section 111(b) of Pub. L. 94-280 provided that: "The amendment made by subsection (a) of this section [to fourth sentence of subsec. (e)(2) of this section] shall be applicable to each route on the Interstate System approval of which was withdrawn or is hereafter withdrawn by the Secretary of Transportation in accordance with the provisions of section 103(e)(2) of title 23, United States Code, including any route on the Interstate System approval of which was withdrawn by the Secretary of Transportation in accordance with the provisions of title 23, United States Code, on August 30, 1965, for the purpose of designating an alternative route."

INTERSTATE SYSTEM SUBSECTION (e)(4) PROVISIONS IN EFFECT PRIOR TO AMENDMENT BY PUB. L. 94-280, § 110; ROUTE WITHDRAWALS WITHIN URBANIZED AREAS; AVAILABILITY OF MILEAGE IN OTHER STATES; PUBLIC MASS TRANSIT NONHIGHWAY PROJECTS; GENERAL FUNDS UNAVAILABLE FOR OBLIGATION AFTER JUNE 30, 1981; SUPPLEMENTARY FUNDS; URBAN MASS TRANSPORTATION PROVISIONS APPLICABLE

Section 103(e)(4) of this title, as added Pub. L. 93-87, title I, § 137(b), Aug. 13, 1973, 87 Stat. 269, and amended Pub. L. 93-643, § 125(b), Jan. 4, 1975, 88 Stat. 2290, read prior to amendment by section 110 of Pub. L. 94-280 [set out in the text] as follows: "Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System within any urbanized area in that State selected and approved in accordance with this title prior to the enactment of this paragraph, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System or will no longer be essential by reason of the application of this paragraph and will not be constructed as a part of the Interstate System, and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by such route or portion thereof. The mileage of the route or portion thereof approval of which is withdrawn under this paragraph shall be available for designation on the Interstate System in any other State in accordance with paragraph (1) of this subsection. After the Secretary has withdrawn his approval of any such route or portion thereof, whenever responsible local officials of such urbanized area notify the State highway department that, in lieu of a route or portion thereof approval for which is withdrawn under this paragraph, their needs require a nonhighway public mass transit project involving the construction of fixed rail facilities, or the purchase of passenger equipment, including rolling stock for any mode of mass transit, or both, and the State highway department determines that such public mass transit project is in accordance with the planning process under section 134 of this title and is entitled to priority under such planning process, such public mass

transit project shall be submitted for approval to the Secretary. Approval of the plans, specifications, and estimates for such project by the Secretary shall be deemed a contractual obligation of the United States for payment out of the general funds in the Treasury of its proportional share of the cost of such project in an amount equal to the Federal share which would be paid for such a project under the Urban Mass Transportation Act of 1964 [section 1601 et seq. of Title 49, Transportation], except that the total Federal cost of all such projects under this paragraph with respect to such route or portion thereof approval of which is withdrawn under this paragraph, shall not exceed the Federal share of the cost which would have been paid for such route or portion thereof, as such cost is included in the 1972 Interstate System cost estimate set forth in table 5 of House Public Works Committee Print Numbered 92-29, as revised in House Report Numbered 92-1443, increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof as of the date of withdrawal of approval under this paragraph and in accordance with that design of such route or portion thereof which is the basis of such 1972 cost estimate. Funds apportioned to such State for the Interstate System, which apportionment is based upon an Interstate System cost estimate that includes a route or portion thereof approval of which is withdrawn under this paragraph, shall be reduced by an amount equal to the Federal share of such project as such share becomes a contractual obligation of the United States. No general funds shall be obligated under authority of this paragraph after June 30, 1981. No nonhighway public mass transit project shall be approved under this paragraph unless the Secretary has received assurances satisfactory to him from the State that public mass transportation systems will fully utilize the proposed project. The provision of assistance under this paragraph shall not be construed as bringing within the application of chapter 15 of title 5, United States Code [section 1501 et seq. of Title 5, Government Organization and Employees], any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended [section 1601 et seq. of Title 49, Transportation]. The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, [section 1602 (e)(4) of Title 49], shall apply in carrying out this paragraph."

BASIS OF FEDERAL-AID SYSTEMS REALIGNMENT

Section 148(d) of Pub. L. 93-87 provided that: "Federal-aid systems realignment shall be based upon anticipated functional usage in the year 1980 or a planned connected system."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 129, 139 of this title; title 49 section 1602a.

§ 104. Apportionment

(a) Whenever an apportionment is made of the sums authorized to be appropriated for expenditure upon the Federal-aid systems, the Secretary shall deduct a sum, in such amount not to exceed 3¾ per centum of all sums so authorized as the Secretary may deem necessary for administering the provisions of law to be financed from appropriations for the Federal-aid systems and for carrying on the research authorized by subsections (a) and (b) of section 307 of this title. In making such determination, the Secretary shall take into account the unexpended balance of any sums deducted for such purposes in prior years. The sum so deducted shall be available for expenditure from the unexpended balance of any appropriation made at any time for expenditure upon the Federal-aid systems, until such sum has been expended.

(b) On October 1 of each fiscal year except as provided in paragraphs (4) and (5) of this subsection, the Secretary, after making the deduction authorized by subsection (a) of this section, shall apportion the remainder of the sums authorized to be appropriated for expenditure upon the Federal-aid systems for that fiscal year, among the several States in the following manner:

(1) For the Federal-aid primary system (including extensions in urban areas and priority primary routes)—

Two-thirds according to the following formula: one-third in the ratio which the area of each State bears to the total area of all the States, one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census, and one-third in the ratio which the mileage of rural delivery routes and intercity mail routes where service is performed by motor vehicles in each State bear to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, as shown by a certificate of the Postmaster General, which he is directed to make and furnish annually to the Secretary; and one-third as follows: in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census. No State (other than the District of Columbia) shall receive less than one-half of 1 per centum of each year's apportionment.

(2) For the Federal-aid secondary system:

One-third in the ratio which the area of each State bears to the total area of all the States; one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census; and one-third in the ratio which the mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, certified as above provided, in each State bears to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles in all the States. No State (other than the District of Columbia) shall receive less than one-half of 1 per centum of each year's apportionment.

[(3) Repealed. Pub. L. 94-280, title I, § 112(c), May 5, 1976, 90 Stat. 434.]

(4) For the Interstate System, for the fiscal years ending June 30, 1957, June 30, 1958, and June 30, 1959:

One-half in the ratio which the population of each State bears to the total population of all the States as shown by the latest available Federal census, except that no States shall receive less than three-fourths of 1 per centum of the funds so apportioned; and one-half in the manner provided in paragraph (1) of this subsection. The sums authorized by section

108(b) of the Federal-Aid Highway Act of 1956 for the fiscal years ending June 30, 1958, and June 30, 1959, shall be apportioned on a date not less than six months and not more than twelve months in advance of the beginning of the fiscal year for which authorized.

(5)(A) Except as provided in subparagraph (B)—For the Interstate System for the fiscal years 1960 through 1990:

For the fiscal years 1960 through 1966, in the ratio which the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of completing the Interstate System in all of the States. For the fiscal years 1967 through 1990, in the ratio which the Federal share of the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of the Federal share of completing the Interstate System in all of the States. Each apportionment herein authorized for the fiscal years 1960 through 1990, inclusive, shall be made on October 1 of the year preceding the fiscal year for which authorized. As soon as the standards provided for in subsection (b) of section 109 of this title have been adopted, the Secretary, in cooperation with the State highway departments, shall make a detailed estimate of the cost of completing the Interstate System as then designated, after taking into account all previous apportionments made under this section, based upon such standards and in accordance with rules and regulations adopted by him and applied uniformly to all of the States. The Secretary shall transmit such estimates to the Senate and the House of Representatives within ten days subsequent to January 2, 1958. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approved estimate in making apportionments for the fiscal years ending June 30, 1960, June 30, 1961, and June 30, 1962. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System, after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1961. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approved estimate in making apportionments for the fiscal years ending June 30, 1963, June 30, 1964, June 30, 1965, and June 30, 1966. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System, after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1965. Upon the approval of such estimate by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1967; June 30, 1968; and June 30, 1969. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1968. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1970, and June 30, 1971. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives on April 20, 1970. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1972, and June 30, 1973. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1972. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1975. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making the apportionment for the fiscal year ending September 30, 1977. The Secretary shall make the apportionment for the fiscal year ending September 30, 1978 in accordance with section 103 of the Federal-Aid Highway Act of 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1977. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1979, and September 30, 1980. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2,

1979. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1981, and September 30, 1982. The Secretary shall make a revised estimate of the cost of completing the then designed Interstate System after taking into account all previous apportionments made under this section in the same matter as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1981. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1983, and September 30, 1984. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1983. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1985, and September 30, 1986. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1985. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1987, and September 30, 1988. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1987. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1989, and September 30, 1990. Whenever the Secretary, pursuant to this subsection, requests and receives estimates of cost from the State highway departments, he shall furnish copies of such estimates at the same time to the Senate and the House of Representatives.

(B) For resurfacing, restoring, and rehabilitating the Interstate System:

In the ratio which the lane miles on the Interstate System which have been in use for more than five years (other than those on toll roads) in each State bears to the total of the lane miles on the Interstate System which have been in use for more than five years (other than those on toll roads) in all States.

(6) For the Federal-aid urban systems:

In the ratio which the population in urban areas, or parts thereof, in each State bears to the total population in such urban areas, or parts thereof, in all the States as shown by the latest available Federal census. No State shall receive less than one-half of 1 per centum of each year's apportionment.

(c)(1) Subject to subsection (d), the amount apportioned in any fiscal year, commencing with the apportionment of funds authorized to be appropriated under subsection (a) of section 102 of the Federal-Aid Highway Act of 1956 (70 Stat. 374), to each State in accordance with paragraph (1) or (2) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such a transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest.

(2) Subject to subsection (d), the amount apportioned in any fiscal year to each State in accordance with paragraph (1) or (6) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest. Funds apportioned in accordance with paragraph (6) of subsection (b) of this section shall not be transferred from their allocation to any urbanized area of two hundred thousand population or more under section 150 of this title, without the approval of the local officials of such urbanized area.

(d) Each transfer of apportionments under subsection (c) of this section shall be subject to the following conditions:

(1) In the case of transfers under paragraph (1), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 40 per centum. Not more than 40 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

(2) In the case of transfers under paragraph (2), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 20 per centum. Not more than 20 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

(3) No transfer shall be made from an apportionment during any fiscal year if during such fiscal year a transfer has been made to such apportionment.

(4) No transfer shall be made to an apportionment during any fiscal year if during such fiscal year a transfer has been made from such apportionment.

(e) On October 1, of each fiscal year the Secretary shall certify to each of the State highway departments the sums which he has apportioned hereunder (other than under subsection (b)(5) of this section) to each State for

such fiscal year, and also the sums which he has deducted for administration and research pursuant to subsection (a) of this section. On October 1 of the year preceding the fiscal year for which authorized, the Secretary shall certify to each of the State highway departments the sums which he has apportioned under subsection (b)(5) of this section to each State for such fiscal year, and also the sums which he has deducted for administration and research pursuant to subsection (a) of this section. To permit the States to develop adequate plans for the utilization of apportioned sums, the Secretary shall advise each State of the amount that will be apportioned each year under this section not later than ninety days before the beginning of the fiscal year for which the sums to be apportioned are authorized, except that in the case of the Interstate System the Secretary shall advise each State ninety days prior to the apportionment of such funds.

(f)(1) On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed one-half per centum of the remaining funds authorized to be appropriated for expenditure upon the Federal-aid systems, for the purpose of carrying out the requirements of section 134 of this title, except that in the case of funds authorized for apportionment on the Interstate System, the Secretary shall set aside that portion of such funds (subject to the overall limitation of one-half of 1 per centum) on October 1 of the year next preceding the fiscal year for which such funds are authorized for such System.

(2) These funds shall be apportioned to the States in the ratio which the population in urbanized areas or parts thereof, in each State bears to the total population in such urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than one-half per centum of the amount apportioned.

(3) The funds apportioned to any State under paragraph (2) of this subsection shall be made available by the State to the metropolitan planning organizations designated by the State as being responsible for carrying out the provisions of section 134 of this title, except that States receiving the minimum apportionment under paragraph (2) may, in addition, subject to the approval of the Secretary, use the funds apportioned to finance transportation planning outside of urbanized areas. These funds shall be matched in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

(4) The distribution within any State of the planning funds made available to agencies under paragraph (3) of this subsection shall be in accordance with a formula developed by each State and approved by the Secretary which shall consider but not necessarily be limited to, population, status of planning, and metropolitan area transportation needs.

(g) Not more than 40 per centum of the amount apportioned in any fiscal year to each State in accordance with sections 144, 152, and 153 of this title, or section 203(d) of the Highway Safety Act of 1973, may be transferred from the apportionment under one section to the apportionment under any other of such sections if such a transfer is requested by the State highway department and is approved by the Secretary as being in the public interest. The Secretary may approve the transfer of 100 per centum of the apportionment under one such section to the apportionment under any other of such sections if such transfer is requested by the State highway department, and is approved by the Secretary as being in the public interest, if he has received satisfactory assurances from such State highway department that the purposes of the program from which such funds are to be transferred have been met. All or any part of the funds apportioned in any fiscal year to a State in accordance with section 203(d) of the Highway Safety Act of 1973 from funds authorized in section 203(c) of such Act, may be transferred from that apportionment to the apportionment made under section 219 of this title if such transfer is requested by the State highway department and is approved by the Secretary after he has received satisfactory assurances from such department that the purposes of such section 203 have been met. Nothing in this subsection authorizes the transfer of any amount apportioned from the Highway Trust Fund to any apportionment the funds for which were not from the Highway Trust Fund, and nothing in this subsection authorizes the transfer of any amount apportioned from funds not from the Highway Trust Fund to any apportionment the funds for which were from the Highway Trust Fund.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 889; Pub. L. 86-70, § 21(e)(2), June 25, 1959, 73 Stat. 146; Pub. L. 86-657, § 8(g), July 14, 1960, 74 Stat. 525; Pub. L. 87-866, § 10(a), Oct. 23, 1962, 76 Stat. 1148; Pub. L. 88-157, §§ 2, 3, Oct. 24, 1963, 77 Stat. 276; Pub. L. 88-423, § 4(a), Aug. 13, 1964, 78 Stat. 397; Pub. L. 89-574, § 4(b), Sept. 13, 1966, 80 Stat. 767; Pub. L. 90-495, § 4(b), Aug. 23, 1968, 82 Stat. 816; Pub. L. 91-605, title I, §§ 104(b), 106(c), Dec. 31, 1970, 84 Stat. 1714, 1717; Pub. L. 93-87, title I, §§ 106(b), 111(a), 112, title II, § 227, Aug. 13, 1973, 87 Stat. 254, 256, 257, 292; Pub. L. 94-280, title I, §§ 106(b), 107(b), 112(a)-(g), 113(a), title II, § 206, May 5, 1976, 90 Stat. 429, 430, 433-435, 453.)

REFERENCES IN TEXT

Federal-Aid Highway Act of 1956, referred to in subsecs. (b)(4), (c), is act June 29, 1956, ch. 462, 70 Stat. 374. For complete classification of this Act to the Code, see Tables volume. Section 102(a) of the Federal-Aid Highway Act of 1956 is set out as a note below. Section 108(b) of the Federal-Aid Highway Act of 1956 is set out as a note under section 101 of this title.

The Federal-Aid Highway Act of 1976, referred to in subsec. (b)(5)(A), is Pub. L. 94-280, title I, May 5, 1976, 90 Stat. 425. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 101 of this title and Tables volume. Section 103 of the Federal-Aid Highway Act of 1976 is set out as a note below.

The Highway Safety Act of 1973, referred to in subsec. (g), is Pub. L. 93-87, title II, Aug. 13, 1973, 87 Stat. 250, which enacted sections 151 to 153, and 405 of this title, amended sections 104, and 401 to 404 of this title, and enacted provisions set out as notes under sections 130, 144, 151, 217, 401 and 403 of this title. For complete classification of this Act to the Code, see

Short Title note set out under section 401 of this title and Tables volume. Section 203(c) and (d) of the Highway Safety Act of 1973 is set out as a note under section 130 of this title.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-280, § 112(a), substituted "On October 1 of each fiscal year" for "On or before January 1 next preceding the commencement of each fiscal year,".

Subsec. (b)(1). Pub. L. 94-280, § 112(b), inserted in the introductory phrase "(including extensions in urban areas and priority primary routes)", made existing provisions applicable for a two-third apportionment of monies, deleting "in all the States at the close of the next preceding calendar year" preceding "as shown by a certificate of the Postmaster General" and inserted provision for a one-third apportionment in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census.

Subsec. (b)(3). Pub. L. 94-280, § 112(c), repealed provisions respecting apportionment of monies for extensions of the Federal-aid primary and Federal-aid secondary systems within urban areas in the ratio which the population in municipalities and other urban places of five thousand or more in each State bears to the total population in municipalities and other urban places of five thousand or more in all of the States as shown by the latest available Federal census.

Subsec. (b)(5)(A). Pub. L. 94-280, §§ 106(b), 107(b), 112(g), designated existing provisions as subpar. (A) and inserted introductory phrase "Except as provided in subparagraph B—"; substituted wherever appearing in introductory phrase and second and third sentences "1990" for "1979"; substituted provision for apportionment for fiscal year ending September 30, 1977, for prior provision for fiscal year ending June 30, 1977, substituted provision for apportionment for fiscal year ending September 30, 1978, in accordance with section 103 of Federal-Aid Highway Act of 1976, for prior provision for apportionment for fiscal year ending June 30, 1978, substituted provision for apportionment for fiscal year ending September 30, 1979, for prior provision for fiscal year ending June 30, 1979, provided for apportionment for fiscal year ending September 30, 1980, and added provisions for revised estimates of completion costs and transmittal thereof to Congress within ten days subsequent to January 2, 1979, 1981, 1983, 1985, and 1987 for apportionments for fiscal years ending September 30, 1981 and 1982, 1983 and 1984, 1985 and 1986, 1987 and 1988, and 1989 and 1990; and substituted in third sentence "October 1 of the year preceding the fiscal year for which authorized" for "a date as far in advance of the beginning of the fiscal year for which authorized as practicable but in no case more than eighteen months prior to the beginning of the fiscal year for which authorized".

Subsec. (b)(5)(B). Pub. L. 94-280, § 106(b), added subpar. (B).

Subsec. (c). Pub. L. 94-280, § 113(a), designated existing provisions as par. (1), substituted "Subject to subsection (d), the amount" for "Not more than 40 per centum of the amount" and "transferred from the apportionment under one paragraph to the apportionment under the other paragraph" for "transferred from the apportionment under one paragraph to the apportionment under any other of such paragraphs" and deleted former last sentence reading "The total of such transfers shall not increase the original apportionment under any of such paragraphs by more than 40 per centum.", and incorporated former subsec. (d) provisions in a new par. (2), substituting "Subject to subsection (d), the amount" for "Not more than 40 per centum of the amount" and paragraph "(1)" for "(3)" and deleting former last sentence reading "The total of such transfers shall not increase the original apportionment under either of such paragraphs by more than 40 per centum."

Subsec. (d). Pub. L. 94-280, § 113(a), added provisions respecting conditions for transfer of apportionments under subsec. (c) of this section and deleted prior subsec. (d) provisions respecting transfer of certain apportionments, now incorporated in subsec. (c)(2) of this section.

Subsec. (e). Pub. L. 94-280, § 112(d), in first sentence, substituted "On October 1" for "On or before January 1 preceding the commencement" and inserted parenthetical phrase "(other than under subsection (b)(5) of this section)" following "hereunder" and added certification provision respecting sums apportioned under subsec. (b)(5) of this section to each State highway department and amount of deductions for administration and research; and added provisions advising the States not less than ninety days before the beginning of the fiscal year of amounts to be apportioned to the States and in the case of the Interstate System ninety days prior to the apportionment of funds.

Subsec. (f)(1). Pub. L. 94-280, § 112(e), substituted "On October 1" for "On or before January 1 next preceding the commencement" and added exception provision.

Subsec. (f)(3). Pub. L. 94-280, § 112(f), authorized State use of apportioned funds to finance transportation planning outside of urbanized areas.

Subsec. (g). Pub. L. 94-280, § 206, increased percentage limitation to "40 per centum" from "30 per centum"; authorized approval by Secretary of transfer of apportionments when requested by the State highway department and approved by the Secretary as being in the public interest; and provided for transfer of apportionments under section 203(c) and (d) of the Highway Safety Act of 1973, to apportionments under section 219 of this title, and clarified the authority for apportionment of Highway Trust Fund funds.

1973—Subsec. (b)(1). Pub. L. 93-87, § 111(a)(1), (2), substituted "intercity mail routes where service is performed by motor vehicles" for "star routes" in two instances, "one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States" for "one-third in the ratio which the population of each State bears to the total population of all the States", and "No State (other than the District of Columbia) shall receive" for "No State shall receive".

Subsec. (b)(2). Pub. L. 93-87, § 111(a)(1), (3), substituted "intercity mail routes where service is performed by motor vehicles" for "star routes" in two instances, "one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all of the States" for "one-third in the ratio which the rural population of each State bears to the total rural population of all the States", and "No State (other than the District of Columbia) shall receive" for "No State shall receive".

Subsec. (b)(5). Pub. L. 93-87, § 106(b), extended from 1976 to 1979, the date for completion of the Interstate System; and authorized the Secretary to use the Federal share of the approved estimate in making apportionments for fiscal years ending June 30, 1976, 1977, 1978, and 1979, reenacted requirement that Secretary make a revised estimate of cost of completing the then designated Interstate System, substituting Jan. 2, 1975, for Jan. 2, 1974, as the commencing date for the ten day period for transmittal of the revised cost estimate, and reenacted provisions of last sentence without change, respectively.

Subsec. (b)(6). Pub. L. 93-87, § 111(a)(4), substituted "urban areas" for "urbanized areas" in two instances and mandated that no State shall receive less than one-half of 1 per centum of each year's apportionment.

Subsec. (c). Pub. L. 93-87, § 111(a)(5), (7), substituted "40" for "20" per centum in two instances and deleted reference to par. (3) of subsec. (b) of this section and provision of last sentence that nothing contained in subsec. (c) shall alter or impair the authority contained in subsec. (d) of this section.

Subsec. (d). Pub. L. 93-87, § 111(a)(6), substituted provisions respecting transfer of apportionment of funds under pars. (3) and (6) of subsec. (b) of this section from one paragraph to the other when requested

by the State highway department and approved as in the public interest by the Governor of the State and the Secretary for former provisions which authorized expenditure of subsec. (b)(2) funds apportioned for Federal-aid secondary system to a State for projects on another Federal-aid system when the State highway department and the Secretary were in joint agreement as to such other expenditure.

Subsec. (f). Pub. L. 93-87, § 112, incorporated provisions of former subsec. (f) that "Not to exceed 50 per centum of the amounts apportioned in accordance with paragraph (3) of subsection (b) of this section may be expended for projects on the Federal-aid urban system" in provisions designated as par. (1) and stating that "On or before January 1 next preceding the commencement of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed one-half per centum of the remaining funds authorized to be appropriated for expenditure upon the Federal-aid systems, for the purpose of carrying out the requirements of section 134 of this title." and added pars. (2)-(4).

Subsec. (g). Pub. L. 93-87, § 227, added subsec. (g).

1970—Subsec. (b)(5). Pub. L. 91-605, § 104(b), extended from 1974 to 1976 the date for completion of the Interstate System, substituted "on April 20, 1970" for "within ten days subsequent to January 2, 1970" as the date for submission by the Secretary to Congress of a revised completion cost estimate of the Interstate System, struck out reference of finality as applied to this estimate, deleted June 30, 1974 from the enumerated list of fiscal years for which the Secretary shall use the Federal share of the approved 1970 estimate in making apportionments, added provision directing the Secretary to submit to Congress a revised Interstate System completion cost estimate within 10 days from Jan. 2, 1972 with apportionments to be made by the Secretary for use in the fiscal years 1974 and 1975 from the Federal share of the approved estimate, and added provision directing the Secretary to submit to Congress another cost estimate within 10 days from Jan. 2, 1974 to be used for making apportionments for the fiscal year 1976.

Subsec. (b)(6). Pub. L. 91-605, § 106(c)(2), added subsec. (b)(6).

Subsec. (f). Pub. L. 91-605, § 106(c)(1), added subsec. (f).

1968—Subsec. (b)(5). Pub. L. 90-495 extended from 1972 to 1974 the date for completion of the Interstate System, added the fiscal year ending June 30, 1971, to the enumeration of fiscal years for which the Secretary may use the Federal share of approval estimates in making apportionments, substituted January 2, 1970, for January 2, 1969, as the date for commencement of the 10-day period during which the Secretary shall transmit to Congress his final revised estimate of the cost of completing the Interstate system, and added the fiscal years ending June 30, 1973, and June 30, 1974, to the enumerated list of fiscal years for which the Secretary shall use the Federal share of the approved estimate in making apportionments.

1966—Subsec. (b)(5). Pub. L. 89-574 substituted "1972" for "1971" wherever appearing except in the provision requiring the Secretary, with the approval of Congress, to use the Federal share of the approved estimates in making apportionments for the fiscal year ending June 30, 1971, and, in such provision, retained the authority of the Secretary to use the Federal share of the approved estimates in making apportionments for the fiscal year ending June 30, 1971, but extended the authority of the Secretary to use the Federal share of the approved estimates in making apportionments for the fiscal year ending June 30, 1972, as well.

1964—Subsec. (b)(5). Pub. L. 88-423 substituted "January 2, 1961" for "January 2, 1962".

1963—Subsec. (b)(3). Pub. L. 88-157, § 2, eliminated provision which considered Connecticut and Vermont towns as municipalities for the purposes of par. (3) regardless of their incorporated status.

Subsec. (b)(5). Pub L. 88-157, § 3, substituted "1971" for "1969" in the introductory phrase and the 3d sentence; inserted the phrase "For the fiscal years 1960 through 1966," and substituted "such State" for "each State" in the 1st sentence; inserted the 2d sentence respecting apportionment for fiscal years 1967 through 1971; substituted in the 9th sentence "January 2, 1965" for "January 2, 1966, and annually thereafter through and including January 2, 1968"; substituted in the 10th sentence "Upon the approval of such estimate by the Congress" for "Upon approval of any such estimate by the Congress by concurrent resolution" and "fiscal years ending June 30, 1967; June 30, 1968; and June 30, 1969" for "fiscal year which begins next following the fiscal year in which such report is transmitted to the Senate and the House of Representatives" and inserted "the Federal share of" preceding "such approved estimate"; and inserted the 11th through 14th sentences, respecting revised cost estimate for completion of the Interstate System and its submission to Congress within 10 days after Jan. 2, 1968, apportionment for fiscal year ending June 30, 1970, final revised cost estimate for completion of the Interstate System and its submission to Congress within 10 days after Jan. 2, 1969, and apportionment for fiscal year ending June 30, 1971, respectively.

1962—Subsec. (b)(1). Pub. L. 87-866 substituted "preceding calendar year" for "preceding fiscal year".

1960—Subsec. (b). Pub L. 86-657 eliminated provisions from par. (5) which required, in making the estimates of cost for completing the Interstate System, exclusion of the cost of completing any mileage designated from the one thousand additional miles authorized by section 108(1) of the Federal-Aid Highway Act of 1956.

1959—Subsec. (b). Pub. L. 86-70 eliminated words ", except that only one-third of the area of Alaska shall be included" following "total area of all States" in pars. (1) and (2).

Effective Date of 1976 Amendment; Applicable Provisions Dependent on Fiscal Fund Authorizations

Section 113(b) of Pub. L. 94-280 provided that: "The amendment made by subsection (a) of this section [to subsecs. (c) and (d) of this section] shall take effect on July 1, 1976, and shall be applicable with respect to funds authorized for the fiscal year ending September 30, 1977, and for subsequent fiscal years. With respect to the fiscal year 1976 and earlier fiscal years, the provisions of subsections (c) and (d) of section 104 of title 23, United States Code, as in effect on June 30, 1976, shall remain applicable to funds authorized for such years."

Effective Date of 1968 Amendment

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

Effective Date of 1962 Amendment

Section 10(b) of Pub. L. 87-866 provided that: "The amendment made by subsection (a) of this section [to subsec. (b)(1) of this section] shall be applicable only with respect to apportionments made after the date of enactment of this Act [Oct. 23, 1962]."

Effective Date of 1959 Amendment

Amendment of subsec. (b) of this section by Pub. L. 86-70 effective July 1, 1959, see section 21(e) of Pub. L. 86-70, set out as an Effective Date of 1959 Amendment note under section 101 of this title.

Transfer of Functions

See Transfer of Functions note under section 101 of this title.

PERCENTAGE OF TOTAL APPORTIONMENT TO EACH STATE FOR FISCAL YEARS 1978 AND 1979; BASIS FOR TRANSFER OF EXCESS AMOUNTS; APPROPRIATIONS AUTHORIZATION

Section 105(b)(1) of Pub. L. 94-280 provided that: "For each of the fiscal years 1978 and 1979, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, and rehabilitation of the Interstate System within such State, the excess amount shall be transferred to and added to the amounts last apportioned to such State under paragraphs (1), (2) and (6) of section 104(b) [subsecs. (b)(1), (2) and (6) of this section] in the ratio which these respective amounts bear to each other in that State, and shall thereafter be available for expenditure in the same manner and to the same extent as the amounts to which they are added. In order to carry out this subsection, there are authorized to be appropriated, out of the Highway Trust Fund, not to exceed $91,000,000 for the fiscal year ending September 30, 1978, and $125,000,000 for the fiscal year ending September 30, 1979."

PUBLIC BOAT LAUNCHING AREAS; ACCESS RAMPS

Section 147 of Pub. L. 94-280 provided that: "Funds apportioned to States under subsections (b)(1), (b)(2), and (b)(6) of section 104 of title 23, United States Code, may be used upon the application of the State and the approval of the Secretary of Transportation for construction of access ramps from bridges under construction or which are being reconstructed, replaced, repaired, or otherwise altered on the Federal-aid primary, secondary, or urban system to public boat launching areas adjacent to such bridges. Approval of the Secretary shall be in accordance with guidelines developed jointly by the Secretary of Transporation and the Secretary of the Interior."

USE OF FEDERAL FUNDS DURING PERIOD BEGINNING FEBRUARY 12, 1975, AND ENDING SEPTEMBER 30, 1975

Pub. L. 94-30, § 3, June 4, 1975, 89 Stat. 171, sanctioned the use of any money apportioned under section 104(b) of this title for any Federal-aid highway system in a State for any project in that State on any Federal-aid highway system, such amount to be deducted from the apportionment made after June 4, 1975 and repaid and credited to the last apportionment made for which the money was originally apportioned.

MINIMUM APPORTIONMENT FOR PRIMARY SYSTEM; ADDITIONAL APPROPRIATIONS FOR FISCAL YEARS ENDING JUNE 30, 1974, 1975, AND 1976

Section 111(b) of Pub. L. 93-87 provided that: "Notwithstanding the amendments made by subsection (a) of this section [to subsecs. (b)(1), (2), (6), (c) and (d) of this section] no State (other than the District of Columbia) shall receive an apportionment for the primary system which is less than the apportionment which such State received for such system for the fiscal year ending June 30, 1973. In order to carry out this subsection, there is authorized to be appropriated out of the Highway Trust Fund for the Federal-aid primary system, an additional $17,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 per fiscal year for the fiscal years ending June 30, 1975, and June 30, 1976."

PERCENTAGE OF TOTAL APPORTIONMENT TO EACH STATE FOR FISCAL YEAR 1974, 1975, AND 1976; BASIS FOR TRANSFER OF EXCESS AMOUNT; APPROPRIATIONS AUTHORIZATION; INTERIM LEGISLATION

Section 104(b) of Pub. L. 93-87 authorized the appropriation of not to exceed $50,000,000 for each of fiscal years 1974, 1975 and 1976, with no State to receive less than one-half of 1 per centum of the total, and any amount in excess of the cost of completing a State's portion of the system to be transferred and added to amounts apportioned in a specified ratio.

SECTION 102(a) OF THE FEDERAL-AID HIGHWAY ACT OF 1956

Act June 29, 1956, ch. 462, title I, § 102(a), 70 Stat. 374, authorized, for the purpose of carrying out the provisions of the Federal-Aid Road Act approved July 11, 1916, additional appropriations of $125,000,000 for the fiscal year ending June 30, 1957, $850,000,000 for the fiscal year ending June 30, 1958, and $875,000,000 for the fiscal year ending June 30, 1959, and provided for the percentage allocation of these funds for primary, secondary and urban systems and the manner of apportionment among the States.

APPROVAL OF ESTIMATE OF COST OF COMPLETING THE INTERSTATE SYSTEM AS BASIS FOR APPORTIONMENT OF FUNDS FOR FISCAL YEARS 1963 TO 1966

Pub. L. 87-61, title I, § 102, June 29, 1961, 75 Stat. 122, approved the estimate of cost of completing the Interstate System in each State, transmitted to the Congress on Jan. 11, 1961, as the basis for making the apportionment of funds authorized for the fiscal years ending June 30, 1963, 1964, 1965, and 1966.

APPROVAL OF ESTIMATE OF COST OF COMPLETING THE INTERSTATE SYSTEM AS BASIS FOR APPORTIONMENT OF FUNDS FOR FISCAL YEARS 1960-1962

Pub. L. 85-381, § 8, Apr. 16, 1958, 72 Stat. 94, as amended by Pub. L. 85-899, § 1, Sept. 2, 1958, 72 Stat. 1725; Pub. L. 86-342, title I, § 103, Sept. 21, 1959, 73 Stat. 611, approved the estimate of cost of completing the Interstate System in each State, transmitted to the Congress on Jan. 7, 1958, as the basis for making the apportionment of funds authorized for the fiscal years ending June 30, 1960, 1961, and 1962.

PERCENTAGE OF TOTAL APPORTIONMENT TO EACH STATE FOR THE FISCAL YEARS 1972 AND 1973; REPORT TO CONGRESS

Section 105(b) of Pub. L. 91-605 provided that no State receive less than one-half of 1 per centum of the total apportionment for each of the fiscal years 1972 and 1973 as provided for in subsec. (b)(5) of this section, authorized funds, not to exceed $55,000,000, be apportioned from the Highway Trust Fund to ensure that each State received such per centum, and required the Secretary submit a report to Congress by Jan. 1, 1972, containing recommendations for the apportionment of funds and matching requirements for work on federal-aid highways which completed or nearing completion.

APPORTIONMENTS FOR SUBSEQUENT YEARS BASED ON REVISED ESTIMATES OF COST

Act June 29, 1956, ch. 462, title I, § 108(d), 70 Stat. 378, as amended by Sept. 2, 1958, Pub. L. 85-899, § 2, 72 Stat. 1725, provided that the sums authorized for the fiscal years 1960 through 1969 be apportioned among the several States in the ratio which the estimated cost of completing the Interstate System had to the sum of the estimated cost of completing the Interstate System in all of the States, and required the Secretary of Commerce, in cooperation with State highway departments, to make detailed revised estimates of the cost of completion of the system and to supply Congress with such revised estimate.

APPROPRIATION FACTORS FOR FISCAL YEAR EXPENDITURES ON NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Section 103 of Pub. L. 94-280 provided that: "The Secretary of Transportation shall apportion for the fiscal year ending September 30, 1978, the sums authorized to be appropriated for such periods by section 108(b) of the Federal-Aid Highway Act of 1956, as amended [set out as a note under this section], for ex-

penditures on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of Committee Print 94-38 of the Committee on Public Works and Transportation of the House of Representatives."

Similar provisions for fiscal years ending as indicated below were contained in prior provisions as follows:

Fiscal Years June 30, 1974, Through 1976—Pub. L. 93-87, title I, § 103, Aug. 13, 1973, 87 Stat. 250;

Fiscal Years June 30, 1972, 1973—Pub. L. 91-605, title I, § 103, Dec. 31, 1970, 84 Stat. 1714;

Fiscal Years June 30, 1970, 1971—Pub. L. 90-495, § 3, Aug. 23, 1968, 82 Stat. 815;

Fiscal Years June 30, 1968, 1969—Pub. L. 89-574, § 3, Sept. 13, 1966, 80 Stat. 766.

Fiscal Year June 30, 1967—Pub. L. 89-139, § 2, Aug. 28, 1965, 79 Stat. 578.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 115, 116, 118, 120, 126, 129, 130, 131, 136, 140, 142, 150, 154, 208, 217, 307, 309, 311, 321 of this title.

§ 105. Programs

(a) As soon as practicable after the apportionments for the Federal-aid systems have been made for any fiscal year, the State highway department of any State desiring to avail itself of the benefits of this chapter shall submit to the Secretary for his approval a program or programs of proposed projects for the utilization of the funds apportioned. The Secretary shall act upon programs submitted to him as soon as practicable after the same have been submitted. The Secretary may approve a program in whole or in part, but he shall not approve any project in a proposed program which is not located upon an approved Federal-aid system.

(b) In approving programs for projects on the Federal-aid secondary system, the Secretary shall require, except in States where all public roads and highways are under the control and supervision of the State highway department, that such project be selected by the State highway department and the appropriate local officials in cooperation with each other.

(c) In approving programs for projects on the Federal-aid primary system, the Secretary shall give preference to such projects as will expedite the completion of an adequate and connected system of highways interstate in character.

(d) In approving programs for projects on the Federal-aid urban system, the Secretary shall require that such projects be selected by the appropriate local officials with the concurrence of the State highway department of each State and, in urbanized areas, also in accordance with the planning process required pursuant to section 134 of this title.

(e) In approving programs for projects under this chapter, the Secretary may give priority of approval to, and expedite the construction of, projects that are recommended as important to the national defense by the Secretary of Defense, or other official authorized by the President to make such recommendation.

(f) In approving programs for projects on the Federal-aid systems pursuant to chapter 1 of this title, the Secretary shall give priority to those projects which incorporate improved standards and features with safety benefits.

(g) In preparing programs to submit in accordance with subsection (a) of this section, the State highway departments shall give consideration to projects providing direct and convenient public access to public airports and public ports for water transportation, and in approving such programs the Secretary shall give consideration to such projects.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 891; Pub. L. 86-624, § 17(b), July 12, 1960, 74 Stat. 415; Pub. L. 89-564, title II, § 206, Sept. 9, 1966, 80 Stat. 736; Pub. L. 91-605, title I, §§ 106(d), 132, Dec. 31, 1970, 84 Stat. 1717, 1732; Pub. L. 93-87, title I, § 109(b), Aug. 13, 1973, 87 Stat. 255.)

AMENDMENTS

1973—Subsec. (d). Pub. L. 93-87 substituted "projects be selected by the appropriate local officials with the concurrence of the State highway department of each State and, in urbanized areas, also in accordance with the planning process required pursuant to section 134 of this title", for "projects be selected by the appropriate local officials and the State highway department in cooperation with each other".

1970—Subsec. (d). Pub. L. 91-605, § 106(d), added subsec. (d). Former subsec. (d) redesignated subsec. (e).

Subsec. (e). Pub. L. 91-605, § 106(d), redesignated former subsec. (d) as subsec. (e). Former subsec. (e) redesignated subsec. (f).

Subsec. (f). Pub. L. 91-605, § 106(d), redesignated former subsec. (e) as subsec. (f).

Subsec. (g). Pub. L. 91-605, § 132, added subsec. (g).

1966—Subsec. (e). Pub. L. 89-564 added subsec. (e).

1960—Subsec. (e). Pub. L. 86-624 repealed subsec. (e), which required the Secretary, in approving programs in Hawaii, to give preference to such projects as will expedite the completion of highways for the national defense or which will connect seaports with units of the national parks.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 117, 134, 140, 143, 150, 151 of this title.

§ 106. Plans, specifications, and estimates

(a) Except as provided in section 117 of this title, the State highway department shall submit to the Secretary for his approval, as soon as practicable after program approval, such surveys, plans, specifications, and estimates for each proposed project included in an approved program as the Secretary may require. The Secretary shall act upon such surveys, plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such project shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto. In taking such action, the Secretary shall be guided by the provisions of section 109 of this title.

(b) In addition to the approval required under subsection (a) of this section, proposed specifications for projects for construction on (1) the Federal-aid secondary system, except in States where all public roads and highways are under the control and supervision of the State highway department, and (2) the Federal-aid urban system, shall be determined by the State highway department and the appropriate local road officials in cooperation with each other.

(c) Items included in any such estimate for construction engineering shall not exceed 10

per centum of the total estimated cost of a project financed with Federal-aid highway funds, after excluding from such total estimate cost, the estimated costs of rights-of-way, preliminary engineering, and construction engineering. However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary.

(d) In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid system shall be accompanied by a value engineering or other cost reduction analysis.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 892; Pub. L. 88-157, § 7(a), Oct. 24, 1963, 77 Stat. 278; Pub. L. 91-605, title I, §§ 106(e), 142, Dec. 31, 1970, 84 Stat. 1717, 1737; Pub. L. 94-280, title I, § 114, May 5, 1976, 90 Stat. 436.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-280 substituted "Federal-aid highway funds" for "Federal-aid primary, secondary, or urban funds" and "such total estimate cost" for "such total estimated cost" and deleted 10 per centum limitation for any project financed with interstate funds.

1970—Subsec. (b). Pub. L. 91-605, § 106(e), inserted reference to the Federal-aid urban system. Subsec. (d). Pub. L. 91-605, § 142, added subsec. (d).

1963—Subsec. (c). Pub. L. 88-157 substituted "a project financed with Federal-aid primary, secondary, or urban funds" for "the project" and provided for limitation, on items included in estimates for construction engineering on projects financed with Federal-aid primary, secondary, or urban funds, of 15 percent of total estimated cost of the project where found by the Secretary to be necessary and for 10-percent limitation on projects financed with interstate funds.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

MODIFICATION OF PROJECT AGREEMENTS TO EFFECTUATE REQUIREMENT OF FOUR-LANES OF TRAFFIC

Pub. L. 89-574, § 5(b), Sept. 13, 1966, 80 Stat. 767, provided that: "The Secretary of Commerce [Transportation] is authorized to modify project agreements entered into prior to the date of enactment of this Act [Sept. 13, 1966] pursuant to section 106 of title 23 of the United States Code for the purpose of effectuating the amendment made by this section [amending section 109(b) of this title to add a requirement of four lanes of traffic] with respect to as much of the National System of Interstate and Defense Highways as may be possible."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 109, 117, 141, 143, 154 of this title; title 40 App. section 201.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 7-135 of the District of Columbia Code.

§ 107. Acquisition of rights-of-way—Interstate System

(a) In any case in which the Secretary is requested by a State to acquire lands or interests in lands (including within the term "interests in lands", the control of access thereto from adjoining lands) required by such State for right-of-way or other purposes in connection with the prosecution of any project for the construction, reconstruction, or improvement of any section of the Interstate System, the Secretary is authorized, in the name of the United States and prior to the approval of title by the Attorney General, to acquire, enter upon, and take possession of such lands or interests in lands by purchase, donation, condemnation, or otherwise in accordance with the laws of the United States (including the Act of February 26, 1931, 46 Stat. 1421), if—

(1) the Secretary has determined either that the State is unable to acquire necessary lands or interests in lands, or is unable to acquire such lands or interests in lands with sufficient promptness; and

(2) the State has agreed with the Secretary to pay, at such time as may be specified by the Secretary an amount equal to 10 per centum of the costs incurred by the Secretary, in acquiring such lands or interests in lands, or such lesser percentage which represents the State's pro rata share of project costs as determined in accordance with subsection (c) of section 120 of this title.

The authority granted by this section shall also apply to lands and interests in lands received as grants of land from the United States and owned or held by railroads or other corporations.

(b) The costs incurred by the Secretary in acquiring any such lands or interests in lands may include the cost of examination and abstract of title, certificate of title, advertising, and any fees incidental to such acquisition. All costs incurred by the Secretary in connection with the acquisition of any such lands or interests in lands shall be paid from the funds for construction, reconstruction, or improvement of the Interstate System apportioned to the State upon the request of which such lands or interests in lands are acquired, and any sums paid to the Secretary by such State as its share of the costs of acquisition of such lands or interests in lands shall be deposited in the Treasury to the credit of the appropriation for Federal-aid highways and shall be credited to the amount apportioned to such State as its apportionment of funds for construction, reconstruction, or improvement of the Interstate System, or shall be deducted from other moneys due the State for reimbursement from funds authorized to be appropriated under section 108(b) of the Federal-Aid Highway Act of 1956.

(c) The Secretary is further authorized and directed by proper deed, executed in the name of the United States, to convey any such lands or interests in lands acquired in any State under the provisions of this section, except the outside five feet of any such right-of-way in any State which does not provide control of access, to the State highway department of such State or such political subdivision thereof as its laws may provide, upon such terms and conditions as to such lands or interests in lands as may be agreed upon by the Secretary and the State highway department or political subdivisions to which the conveyance is to be made. Whenever the State makes provision for control of access satisfactory to the Secretary, the outside five feet then shall be conveyed to the State by the Secretary, as herein provided.

(d) Whenever rights-of-way, including control of access, on the Interstate System are required over lands or interests in lands owned by the

United States, the Secretary may make such arrangements with the agency having jurisdiction over such lands as may be necessary to give the State or other person constructing the projects on such lands adequate rights-of-way and control of access thereto from adjoining lands, and any such agency is directed to cooperate with the Secretary in this connection.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 892.)

REFERENCES IN TEXT

The Act of February 26, 1931, 46 Stat. 1421, referred to in subsec. (a), is act Feb. 26, 1931, ch. 307, 46 Stat. 1421, which enacted sections 258a to 258e of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Tables volume.

The Federal-Aid Highway Act of 1956, referred to in subsec. (b), is act June 29, 1956, ch. 462, 70 Stat. 374. For complete classification of this Act to the Code, see Tables volume. Section 108(b) of the Federal-Aid Highway Act of 1956 is set out as a note under section 101 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 108. Advance acquisition of rights-of-way

(a) For the purpose of facilitating the acquisition of rights-of-way on any of the Federal-aid highway systems, including the Interstate System, in the most expeditious and economical manner, and recognizing that the acquisition of rights-of-way requires lengthy planning and negotiations if it is to be done at a reasonable cost, the Secretary, upon the request of the State highway department, is authorized to make available the funds apportioned to any State for expenditure on any of the Federal-aid highway systems, including the Interstate System, for acquisition of rights-of-way, in anticipation of construction and under such rules and regulations as the Secretary may prescribe. The agreement between the Secretary and the State highway department for the reimbursement of the cost of such rights-of-way shall provide for the actual construction of a road on such rights-of-way within a period not exceeding ten years following the fiscal year in which such request is made unless a longer period is determined to be reasonable by the Secretary.

(b) Federal participation in the cost of rights-of-way acquired under subsection (a) of this section shall not exceed the Federal pro rata share applicable to the class of funds from which Federal reimbursement is made.

(c)(1) There is hereby established in the Treasury of the United States a revolving fund to be known as the right-of-way revolving fund which shall be administered by the Secretary in carrying out the provisions of this subsection. Sums authorized to be appropriated to the right-of-way revolving fund shall be available for expenditure without regard to the fiscal year for which such sums are authorized.

(2) For the purpose of acquiring rights-of-way for future construction of highways on any Federal-aid system and for making payments for the moving or relocation of persons, businesses, farms, and other existing uses of real property caused by the acquisition of such rights-of-way, in addition to the authority contained in subsection (a) of this section, the Secretary, upon request of a State highway department, is authorized to advance funds, without interest, to the State from amounts available in the right-of-way revolving fund, in accordance with rules and regulations prescribed by the Secretary. Funds so advanced may be used to pay the entire costs of projects for the acquisition of rights-of-way, including the net cost to the State of property management, if any, and related moving and relocation payments.

(3) Actual construction of a highway on rights-of-way, with respect to which funds are advanced under this subsection, shall be commenced within a period of not less than two years nor more than ten years following the end of the fiscal year in which the Secretary approves such advance of funds, unless the Secretary, in his discretion, shall provide for an earlier or later termination date. Immediately upon the termination of the period of time within which actual construction must be commenced, in the case of any project where such construction is not commenced before such termination, or upon approval by the Secretary of the plans, specifications, and estimates for such project for the actual construction of a highway on rights-of-way with respect to which funds are advanced under this subsection, whichever shall occur first, the right-of-way revolving fund shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120 of this title, out of any Federal-aid highway funds apportioned to the State in which such project is located and available for obligation for projects on the Federal-aid system of which such project is to be a part, and the State shall reimburse the Secretary in an amount equal to the non-Federal share of the funds advanced for deposit in, and credit to, the right-of-way revolving fund.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 893; Pub. L. 86-35, § 1, May 29, 1959, 73 Stat. 62; Pub. L. 90-495, § 7(a), (b), Aug. 23, 1968, 82 Stat. 818; Pub. L. 93-87, title I, § 113, Aug. 13, 1973, 87 Stat. 257; Pub. L. 94-280, title I, § 115, May 5, 1976, 90 Stat. 436.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-280, § 115(b), inserted in last sentence after "request is made" the words "unless a longer period is determined to be reasonable by the Secretary".

Subsec. (c)(2). Pub. L. 94-280, § 115(a), deleted from last sentence "made pursuant to section 133 or chapter 5 of this title" following "relocation payments".

Subsec. (c)(3). Pub. L. 94-280, § 115(c), inserted in first sentence "or later" following "earlier".

1973—Subsec. (a). Pub. L. 93-87, § 113(a), substituted "ten" for "seven" years in last sentence.

Subsec. (c)(3). Pub. L. 93-87, § 113(b), substituted "ten" for "seven" years in first sentence.

1968—Subsec. (b). Pub. L. 90-495, § 7(a), substituted "subsection (a) of this section" for "this section".

Subsec. (c). Pub. L. 90-495, § 7(b), added subsec. (c).

1959—Subsec. (a). Pub. L. 86-35 increased from five to seven years the period in which actual construction shall commence on rights-of-way acquired in anticipation of such construction.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Ef-

fective Date of 1968 Amendment note under section 101 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

AUTHORIZATION OF APPROPRIATIONS TO RIGHT-OF-WAY REVOLVING FUND; APPORTIONMENT; REVERSION OF AMOUNTS NOT ADVANCED OR OBLIGATED

Section 7(c) to (e) of Pub. L. 90-495 provided that $100,000,000 for the fiscal year ending June 30, 1970, $100,000,000 for the fiscal year ending June 30, 1971, and $100,000,000 for the fiscal year ending June 30, 1972, be transferred from the highway trust fund to the right-of-way revolving fund established by subsec. (c) of this section, authorized the Secretary to apportion these funds and required that funds apportioned to a State remain available for obligation for advances until Oct. 1 of the fiscal year in which the apportionment was made and any funds not advanced or obligated by such date revert to the right-of-way revolving fund for distribution to other States.

STUDY OF ADVANCE ACQUISITION OF RIGHTS-OF-WAY

Pub. L. 89-574, § 10, Sept. 13, 1966, 80 Stat. 769, directed the Secretary of Commerce to make a full and complete investigation and study of the advance acquisition of rights-of-way for future construction of highways on the Federal-aid highway systems, with particular reference to the provision of adequate time for the removal and disposal of improvements located on rights-of-way and the relocation of affected individuals, businesses, institutions, and organizations, the tax status of such property after acquisition and before its use for highway purposes, and the methods for financing advance right-of-way acquisition by both the State governments and the Federal Government, including the possible creation of revolving funds for such purpose. The Secretary was required to submit a report of results of such study to Congress not later than July 1, 1967, together with his recommendations.

INCREASED LIMITATION PERIOD APPLICABLE TO CERTAIN CONTRACTS

Section 2 of Pub. L. 86-35 provided that agreements entered into before May 29, 1959 by the Secretary of Commerce and a State highway department under authority of section 110(a) of the Federal-Aid Highway Act of 1956, or section 108(a) of title 23 of the United States Code shall be deemed to provide for actual construction of a road on such rights-of-way within a period of seven years following the fiscal year in which such request was made.

§ 109. Standards

(a) The Secretary shall not approve plans and specifications for proposed projects on any Federal-aid system if they fail to provide for a facility (1) that will adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; (2) that will be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality.

(b) The geometric and construction standards to be adopted for the Interstate System shall be those approved by the Secretary in cooperation with the State highway departments. Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by the Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such project. Such standards shall in all cases provide for at least four lanes of traffice. The right-of-way width of the Interstate System shall be adequate to permit construction of projects on the Interstate System to such standards. The Secretary shall apply such standards uniformly throughout all the States.

(c) Projects on the Federal-aid secondary system in which Federal funds participate shall be constructed according to specifications that will provide all-weather service and permit maintenance at a reasonable cost.

(d) On any highway project in which Federal funds hereafter participate, or on any such project constructed since December 20, 1944, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency, shall be subject to the approval of the State highway department with the concurrence of the Secretary, who is directed to concur only in such installations as will promote the safe and efficient utilization of the highways.

(e) No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2 of this title, unless proper safety protective devices complying with safety standards determined by the Secretary at that time as being adequate shall be installed or be in operation at any highway and railroad grade crossing or drawbridge on that portion of the highway with respect to which such expenditures are to be made.

(f) The Secretary shall not, as a condition precedent to his approval under section 106 of this title, require any State to acquire title to, or control of, any marginal land along the proposed highway in addition to that reasonably necessary for road surfaces, median strips, gutters, ditches, and side slopes, and of sufficient width to provide service roads for adjacent property to permit safe access at controlled locations in order to expedite traffic, promote safety, and minimize roadside parking.

(g) The Secretary shall issue within 30 days after the day of enactment of the Federal-Aid Highway Act of 1970 guidelines for minimizing possible soil erosion from highway construction. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

(1) air, noise, and water pollution;

(2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;

(3) adverse employment effects, and tax and property values losses;

(4) injurious displacement of people, businesses and farms; and

(5) disruption of desirable community and regional growth.

Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for any proposed project on any Federal-aid system for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards. The Secretary, after consultation with the Administrator of the Environmental Protection Agency and appropriate Federal, State, and local officials, may promulgate standards for the control of highway noise levels for highways on any Federal-aid system for which project approval has been secured prior to July 1, 1972. The Secretary may approve any project on a Federal-aid system to which noise-level standards are made applicable under the preceding sentence for the purpose of carrying out such standards. Such project may include, but is not limited to, the acquisition of additional rights-of-way, the construction of physical barriers, and landscaping. Sums apportioned for the Federal-aid system on which such project will be located shall be available to finance the Federal share of such project. Such project shall be deemed a highway project for all purposes of this title.

(j) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended.

(k) The Secretary shall not approve any project involving approaches to a bridge under this title, if such project and bridge will significantly affect the traffic volume and the highway system of a contiguous State without first taking into full consideration the views of that State.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 894; Pub. L. 88-157, § 4, Oct. 24, 1963, 77 Stat. 277; Pub. L. 89-574, §§ 5(a), 14, Sept. 13, 1966, 80 Stat. 767, 771; Pub. L. 91-605, title I, § 136(a), (b), Dec. 31, 1970, 84 Stat. 1734; Pub. L. 93-87, title I, §§ 114, 152(2), 156, Aug. 13, 1973, 87 Stat. 257, 276, 277.)

REFERENCES IN TEXT

The day of enactment of the Federal-Aid Highway Act of 1970, referred to in subsec. (g), is Dec. 31, 1970.

The Clean Air Act, referred to in subsec. (j), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, which is classified generally to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1857 of Title 42 and Tables volume.

AMENDMENTS

1973—Subsec. (g). Pub. L. 93-87, § 152(2), substituted "Act" for "Rct", thus correcting the popular name to read "Federal-Aid Highway Act of 1970".

Subsec. (i). Pub. L. 93-87, § 114, authorized promulgation of noise-level standards for highways on any Federal-aid system for which project approval has been secured prior to July 1, 1972, and approval of any project on a Federal-aid system to which noise-level standards are made applicable, described the range of the projects, made money available for financing Federal share of the project, and deemed such project a highway project for all purposes of this title.

Subsec. (k). Pub. L. 93-87, § 156, added subsec. (k).

1970—Subsec. (g). Pub. L. 91-605, § 136(a), substituted provisions ordering the Secretary to issue within 30 days after Dec. 31, 1970, guidelines, which will apply to all proposed projects approved by the Secretary after their issuance, for minimizing soil erosion from highway construction for provisions authorizing the Secretary to consult with the Secretary of Agriculture respecting guidelines for minimizing soil erosion from highway construction and report such guidelines to Congress not later than July 1, 1967.

Subsecs. (h), (i), (j). Pub. L. 91-605, § 136(b), added subsecs. (h), (i), and (j).

1966—Subsec. (b). Pub. L. 89-574, § 5(a) required that in all cases the standards provide for at least four lanes of traffic.

Subsec. (g). Pub. L. 89-574, § 14, added subsec. (g).

1963—Subsec. (b). Pub. L. 88-157 substituted "Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by the Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such project" for "Such standards shall be adequate to accommodate the types and volumes of traffic forecast for the year 1975", deleted "up" preceding "to such standards" and inserted "all" in the phrase "throughout all the States".

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

MODIFICATION OF PROJECT AGREEMENTS TO EFFECTUATE REQUIREMENT OF FOUR-LANES OF TRAFFIC

Authorization to modify projects agreements entered into prior to September 13, 1966, to effectuate the amendment of this section by Pub. L. 89-574 which added the requirement of four-lanes of traffic, see section 5(b) of Pub. L. 89-574, set out as a note under section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 106, 115, 117, 142 of this title.

§ 110. Project agreements

(a) As soon as practicable after the plans, specifications, and estimates for a specific project have been approved, the Secretary shall enter into a formal project agreement with the State highway department concerning the construction and maintenance of such project. Such project agreement shall make provision for State funds required for the State's pro rata share of the cost of construction of such pro-

ject and for the maintenance thereof after completion of construction.

(b) The Secretary may rely upon representations made by the State highway department with respect to the arrangements or agreements made by the State highway department and appropriate local officials where a part of the project is to be constructed at the expense of, or in cooperation with, local subdivisions of the State.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 894.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 101 of this title.

§ 111. Agreements relating to use of and access to rights-of-way—Interstate System

All agreements between the Secretary and the State highway department for the construction of projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary. Such agreements shall also contain a clause providing that the State will not permit automotive service stations or other commercial establishments for serving motor vehicle users to be constructed or located on the rights-of-way of the Interstate System. Such agreements may, however, authorize a State or political subdivision thereof to use or permit the use of the airspace above and below the established grade line of the highway pavement for such purposes as will not impair the full use and safety of the highway, as will not require or permit vehicular access to such space directly from such established grade line of the highway, or otherwise interfere in any way with the free flow of traffic on the Interstate System.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 895; Pub. L. 87-61, title I, § 104(a), June 29, 1961, 75 Stat. 122.)

AMENDMENTS

1961—Pub. L. 87-61 substituted "to use or permit the use of the airspace above and below the established grade line of the highway pavement for such purposes as will not impair the full use and safety of the highway, as will not require or permit vehicular access to such space directly from such established grade line of the highway, or otherwise interfere" for "to use the airspace above and below the established grade line of the highway pavement for the parking of motor vehicles provided such use does not interfere".

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

REVISION OF AGREEMENTS RELATING TO UTILIZATION OF SPACE ON RIGHTS-OF-WAY

Section 104(b) of Pub. L. 87-61 provided that: "Upon application, the Secretary of Commerce [Transportation] is authorized to revise any agreement made prior to the date of enactment of this Act [June 29, 1961] to the extent that such agreement relates to the utilization of space on rights-of-way on the National System of Interstate and Defense Highways to conform to section 111 of title 23 of the United States Code as amended by subsection (a)."

§ 112. Letting of contracts

(a) In all cases where the construction is to be performed by the State highway department or under its supervision, a request for submission of bids shall be made by advertisement unless some other method is approved by the Secretary. The Secretary shall require such plans and specifications and such methods of bidding as shall be effective in securing competition.

(b) Construction of each project, subject to the provisions of subsection (a) of this section, shall be performed by contract awarded by competitive bidding, unless the Secretary shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest. All such findings shall be reported promptly in writing to the Committees on Public Works of the Senate and the House of Representatives. Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility. No requirement or obligation shall be imposed as a condition precedent to the award of a contract to such bidder for a project, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications.

(c) The Secretary shall require as a condition precedent to his approval of each contract awarded by competitive bidding pursuant to subsection (b) of this section, and subject to the provisions of this section, a sworn statement, executed by, or on behalf of, the person, firm, association, or corporation to whom such contract is to be awarded, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such contract.

(d) No contract awarded by competitive bidding pursuant to subsection (b) of this section, and subject to the provisions of this section, shall be entered into by any State highway department or local subdivision of the State without compliance with the provisions of this section, and without the prior concurrence of the Secretary in the award thereof.

(e) The provisions of this section shall not be applicable to contracts for projects on the Federal-aid secondary system in those States where the Secretary has discharged his responsibility pursuant to section 117 of this title.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 895; Pub. L. 90-495, § 22(c), Aug. 23, 1968, 82 Stat. 827.)

AMENDMENTS

1968—Subsec. (b). Pub. L. 90-495 required that contracts for the construction of each project be awarded only on the basis of the lowest responsive bid by a bidder meeting established criteria of responsibility and required that, to be imposed as a condition precedent, requirements and obligations have been specifically set forth in the advertised specifications.

CHANGE OF NAME

The Committees on Public Works of the Senate and the House of Representatives, referred to in subsec. (b), were redesignated the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives, respectively, by Senate Resolution 4, Feb. 4, 1977, effective Feb. 11, 1977, and House Resolution 988, Oct. 8, 1974, effective Jan. 3, 1975.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 209, 210 of this title.

§ 113. Prevailing rate of wage—Interstate System

(a) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on the initial construction work performed on highway projects on the Federal-aid systems, the primary and secondary, as well as their extensions in urban areas, and the Interstate System, authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems, shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of August 30, 1935, known as the Davis-Bacon Act (40 U.S.C. 267a).[1]

(b) In carrying out the duties of subsection (a) of this section, the Secretary of Labor shall consult with the highway department of the State in which a project on any of the Federal-aid systems is to be performed. After giving due regard to the information thus obtained, he shall make a predetermination of the minimum wages to be paid laborers and mechanics in accordance with the provisions of subsection (a) of this section which shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project.

(c) The provisions of the section shall not be applicable to employment pursuant to apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting equal employment opportunity in connection with Federal-aid highway construction programs.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 895; Pub. L. 90-495, § 12(a), Aug. 23, 1968, 82 Stat. 821.)

REFERENCES IN TEXT

The Act of August 30, 1935, known as the Davis-Bacon Act (40 U.S.C. 267a), referred to in subsec. (a), is act Aug. 30, 1935, ch. 825, 49 Stat. 1011, which enacted sections 276a-1 to 276a-6 of Title 40, Public Buildings, Property, and Works, and amended section 276a of Title 40. For complete classification of this Act to the Code, see Tables volume.

[1] So in original. Probably should be 40 U.S.C. 276a.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-495 extended wage rate provisions to the construction of all Federal-aid highway projects by amending provisions limiting them only to the Interstate System.

Subsec. (b). Pub. L. 90-495 substituted "any of the Federal-aid systems" for "the Interstate System".

Subsec. (c). Pub. L. 90-495 added subsec. (c).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 114. Construction

(a) The construction of any highways or portions of highways located on a Federal-aid system shall be undertaken by the respective State highway departments or under their direct supervision. Except as provided in section 117 of this title, such construction shall be subject to the inspection and approval of the Secretary. The construction work and labor in each State shall be performed under the direct supervision of the State highway department and in accordance with the laws of that State and applicable Federal laws. Construction may be begun as soon as funds are available for expenditure pursuant to subsection (a) of section 118 of this title. After July 1, 1973, the State highway department shall not erect on any project where actual construction is in progress and visible to highway users any informational signs other than official traffic control devices conforming with standards developed by the Secretary of Transportation.

(b) Convict labor shall not be used in such construction unless it is labor performed by convicts who are on parole or probation.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 896; Pub. L. 86-657, § 8(f), July 14, 1960, 74 Stat. 525; Pub. L. 93-87, title I, § 115, Aug. 13, 1973, 87 Stat. 258.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-87 substituted last sentence reading "After July 1, 1973, the State highway department shall not erect on any project where actual construction is in progress and visible to highway users any informational signs other than official traffic control devices conforming with standards developed by the Secretary of Transportation." for "On any project where actual construction is in progress and visible to highway users, the State highway department shall erect such informational sign or signs as prescribed by the Secretary, identifying the project and the respective amounts contributed therefor by the State and Federal Governments."

1960—Subsec. (a). Pub. L. 86-657 required State highway departments to erect, on any project where actual construction is in progress and visible to highway users, such informational sign or signs as prescribed by the Secretary, identifying the project and the respective contributions therefor by the State and Federal Governments.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 121 of this title.

§ 115. Construction by States in advance of apportionment

(a) When a State has obligated all funds for any of the Federal-aid systems, other than the Interstate System, apportioned to it under section 104 of this title, and proceeds to construct any project without the aid of Federal funds, including one or more parts of any project, on any of the Federal-aid systems in such State, other than the Interstate System, as any of those systems may be designated at that time, in accordance with all procedures and all requirements applicable to projects on any such system, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under section 104 of this title if—

(1) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects on the Federal-aid system involved, and

(2) the project conforms to the applicable standards adopted under section 109 of this title;

The Secretary may not approve an application under this section unless an authorization is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State and that no application may be approved which will exceed the State's expected apportionment of such authorizations.

(b) When a State proceeds to construct any project on the Interstate System without the aid of Federal funds, as that System may be designated at that time, in accordance with all procedures and all requirements applicable to projects on such System, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the cost of construction of such project when additional funds are apportioned to such State under section 104 of this title if—

(1) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects on the Interstate System, and

(2) the project conforms to the applicable standards under section 109 of this title.

(c) In determining the apportionment for any fiscal year under the provisions of section 104 of this title, any such project constructed by a State without the aid of Federal funds shall not be considered completed until an application under the provisions of this section with respect to such project has been approved by the Secretary.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 896; Pub. L. 90-495, § 25(a), (b), Aug. 23, 1968, 82 Stat. 828; Pub. L. 93-643, § 111, Jan. 4, 1975, 88 Stat. 2285.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-643, § 111(a), substituted "other than the Interstate System" for "including the Interstate System" in two instances.

Subsec. (b). Pub. L. 93-643, § 111(b), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c). Pub. L. 93-643, § 111(b), redesignated former subsec. (b) as (c).

1968—Subsec. (a). Pub. L. 90-495, § 25(a), extended advance construction authority to all the Federal-aid highway systems rather than just the Interstate System but provided that anticipation of future apportionments by States should only be permitted for those years for which authorizations have been established by law.

Subsec. (b). Pub. L. 90-495, § 25(b), struck out reference to subsec. (b)(5) of section 104 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 116. Maintenance

(a) It shall be the duty of the State highway department to maintain, or cause to be maintained, any project constructed under the provisions of this chapter or constructed under the provisions of prior Acts. The State's obligation to the United States to maintain any such project shall cease when it no longer constitutes a part of a Federal-aid system.

(b) In any State wherein the State highway department is without legal authority to maintain a project constructed on the Federal-aid secondary system, or within a municipality, such highway department shall enter into a formal agreement for its maintenance with the appropriate officials of the county or municipality in which such project is located.

(c) If at any time the Secretary shall find that any project constructed under the provisions of this chapter or constructed under the provisions of prior Acts, is not being properly maintained, he shall call such fact to the attention of the State highway department. If, within ninety days after receipt of such notice, such project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types in the entire State until such project shall have been put in proper condition of maintenance, unless such project is subject to an agreement pursuant to subsection (b) of this section, in which case approval shall be withheld only for secondary or urban projects in the county or municipality where such project is located.

(d) The Secretary in consultation with the State highway departments and interested and knowledgeable private organizations and individuals shall as soon as possible establish national bridge inspection standards in order to provide for the proper safety inspection of bridges on any of the Federal-aid highway

system. Such standards shall specify in detail the method by which inspections shall be conducted by the State highway departments, the maximum time lapse between inspections and the qualifications for those charged with the responsibility for carrying out such inspections. Each State shall be required to maintain written reports to be available to the Secretary pursuant to such inspections together with a notation of the action taken pursuant to the findings of such inspections. Each State shall be required to maintain a current inventory of all bridges on the Federal-aid system.

(e) The Secretary shall establish in cooperation with the State highway departments a program designed to train appropriate employees of the Federal Government and the State governments to carry out bridge inspections. Such a program shall be revised from time to time in light of new or improved techniques. For the purposes of this section the Secretary may use funds made available pursuant to the provisions of section 104(a) and section 307(a) of this title.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 896; Pub. L. 86-70, § 21(d)(2), (e)(3), June 25, 1959, 73 Stat. 145, 146; Pub. L. 90-495, § 26, Aug. 23, 1968, 82 Stat. 829.)

AMENDMENTS

1968—Subsecs. (d), (e). Pub. L. 90-495 added subsecs. (d) and (e).

1959—Subsec. (a). Pub. L. 86-70, § 21(e)(3), substituted "It" for "Except as provided in subsection (d) of this section, it".

Subsec. (d). Pub. L. 86-70, § 21(d)(2), repealed subsec. (d), which related to expenditure of funds apportioned to the Territory of Alaska and contributed by the Territory for the maintenance of roads.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of subsec. (a) of this section by Pub. L. 86-70 effective July 1, 1959, see section 21(e) of Pub. L. 86-70 set out as an Effective Date of 1959 Amendment note under section 101 of this title.

Repeal of subsec. (d) of this section by Pub. L. 86-70 effective July 1, 1959, see section 21(d) of Pub. L. 86-70 set out as an Effective Date of 1959 Amendment note under section 103 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 117. Certification acceptance

(a) The Secretary may discharge any of his responsibilities under this title relative to projects on Federal-aid systems, except the Interstate System, upon the request of any State, by accepting a certification by the State highway department, or that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction, of its performance of such responsibilities, if he finds such projects will be carried out in accordance with State laws, regulations, directives, and standards which will accomplish the policies and objectives contained in or issued pursuant to this title.

(b) The Secretary shall make a final inspection of each such project upon its completion and shall require an adequate report of the estimated, and actual, cost of construction as well as such other information as he determines necessary.

(c) The procedure authorized by this section shall be an alternative to that otherwise prescribed in this title. The Secretary shall promulgate such guidelines and regulations as may be necessary to carry out this section.

(d) Acceptance by the Secretary of a State's certification under this section may be rescinded by the Secretary at any time if, in his opinion, it is necessary to do.

(e) Nothing in this section shall affect or discharge any responsibility or obligation of the Secretary under any Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d),[1] et seq.), title VIII of the Act of April 11, 1968 (Public Law 90-284, 42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), other than this title.

(f)(1) In the case of the Federal-aid secondary system, in lieu of discharging his responsibilities in accordance with subsections (a) through (d) of this section, the Secretary may, upon the request of any State highway department, discharge his responsibility relative to the plans, specifications, estimates, surveys, contract awards, design, inspection, and construction of all projects on the Federal-aid secondary system by his receiving and approving a certified statement by the State highway department setting forth that the plans, design, and construction for each such project are in accord with those standards and procedures which (A) were adopted by such State highway department, (B) were applicable to projects in this category, and (C) were approved by him.

(2) The Secretary shall not approve such standards and procedures unless they are in accordance with the provisions of subsection (b) of section 105, subsection (b) of section 106, and subsection (c) of section 109, of this title.

(3) Paragraphs (1) and (2) of this subsection shall not be construed to relieve the Secretary of his obligation to make a final inspection of each project after construction and to require an adequate showing of the estimated cost of construction and the actual cost of construction.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 897; Pub. L. 93-87, title I, § 116(a), Aug. 13, 1973, 87 Stat. 258; Pub. L. 94-280, title I, § 116, May 5, 1976, 90 Stat. 436.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (e), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables volume.

[1] So in original. Probably should be 42 U.S.C. 2000d.

The Civil Rights Act of 1964, referred to in subsec. (e), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (2000d et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables volume.

Title VIII of the Act of April 11, 1968, (Pub. L. 90-284), referred to in subsec. (e), is Pub. L. 90-284, title VIII, Apr. 11, 1968, 82 Stat. 81, which is classified generally to subchapter I (§ 3601 et seq.) of chapter 45 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables volume.

The Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, referred to in subsec. (e), probably means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is act Jan. 2, 1971, Pub. L. 91-646, 84 Stat. 1894, and which is classified principally to chapter 61 (§ 4601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables volume.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-280, § 116(a), substituted "which will accomplish the policies and objectives contained in or issued pursuant to this title" for "establishing requirements at least equivalent to those contained in, or issued pursuant to, this title,".

Subsec. (f). Pub. L. 94-280, § 116(b), added subsec. (f).

1973—Pub. L. 93-87 substituted "Certification acceptance" for "Secondary road responsibility" as the section heading.

Subsec. (a). Pub. L. 93-87 added new provisions for former provisions which read "The Secretary may, upon the request of any State highway department, discharge his responsibility relative to the plans, specifications, estimates, surveys, contract awards, design, inspection, and construction of all projects on the Federal-aid secondary system by his receiving and approving a certified statement by the State highway department setting forth that the plans, design, and construction for each such project are in accord with those standards and procedures which (1) were adopted by such State highway department, (2) were applicable to projects in this category, and (3) were approved by him."

Subsec. (b). Pub. L. 93-87 incorporated provisions of former subsec. (c), required the Secretary to include in the report such other information as he determines necessary, and deleted former subsec. (b) provisions which prohibited the Secretary from approving any standards and procedures unless they were in accordance with sections 105(b), 106(b), and 109(c) of this title.

Subsec. (c). Pub. L. 93-87 added subsec. (c). Former subsec. (c), which provided that subsecs. (a) and (b) should not be construed to relieve the Secretary of his obligation to make a final inspection of each project after construction and to require an adequate showing of the estimated cost of construction and the actual cost of construction, is now incorporated in subsec. (b) of this section.

Subsecs. (d), (e). Pub. L. 93-87 added subsecs. (d) and (e).

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 112, 114 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 7-135 of the District of Columbia Code.

§ 118. Availability of sums apportioned

(a) On and after the date that the Secretary has certified to each State highway department the sums apportioned to each Federal-aid system or part thereof pursuant to an authorization under this title, or under prior Acts, such sums shall be available for expenditure under the provisions of this title.

(b) Sums apportioned to each Federal-aid system (other than the Interstate System) shall continue available for expenditure in that State for the appropriate Federal-aid system or part thereof (other than the Interstate System) for a period of three years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unexpended at the end of such period shall lapse. Sums apportioned to the Interstate System shall continue available for expenditure in that State for the Interstate System for a period of two years after the close of the fiscal year for which such sums are authorized. Any amount apportioned to the States for the Interstate System under subsection (b)(5)(A) of section 104 of this title remaining unexpended at the end of the period during which it is available under this section shall lapse and shall immediately be reapportioned among the other States in accordance with the provisions of subsection (b)(5)(A) of section 104 of this title. Any amount apportioned to the States for the Interstate System under subsection (b)(5)(B) of section 104 of this title remaining unexpended at the end of the period of its availability shall lapse. Sums apportioned to a Federal-aid system for any fiscal year shall be deemed to be expended if a sum equal to the total of the sums apportioned to the State for such fiscal year and previous fiscal years is obligated. Any Federal-aid highway funds released by the payment of the final voucher or by the modification of the formal project agreement shall be credited to the same class of funds, primary, secondary, urban, or interstate, previously apportioned to the State and be immediately available for expenditure.

(c) The total payments to any State shall not at any time during a current fiscal year exceed the total of all apportionments to such State in accordance with section 104 of this title for such fiscal year and all preceding fiscal years.

(d) Funds made available to the State of Alaska under this title may be expended for construction of access and development roads on a Federal-aid system that will serve resource development, recreational, residential, commercial, industrial, or other like purposes.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 897; Pub. L. 89-574, § 7(a), Sept. 13, 1966, 80 Stat. 768; Pub. L. 94-280, title I, § 117(a), May 5, 1976, 90 Stat. 436.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-280, in revising the text, provided for a separate three year period of availability of sums apportioned to a Federal-aid system (other than the Interstate System), increased from the previously applicable two year period; continued the existing two year period for sums apportioned to the Interstate System; substituted provision for reapportionment of sums, apportioned to the States for the Interstate System under section 104(b)(4)(A),

under section 104(b)(5)(A) of this title and for lapse of sums apportioned to the Interstate System under section 104(b)(4)(B) of this title for prior provision for reapportionment of sums, apportioned to the States for the Interstate System under section 104(b)(4) and (5), under section 104(b)(5) of this title; and substituted provisions deeming there to be an expenditure of sums apportioned to a Federal-aid system if a sum equal to the total of the sums apportioned to the State for the fiscal year and previous fiscal years is obligated for prior provision deeming an expenditure to exist if a sum equal to the total of the sums apportioned to the States for the fiscal year and previous fiscal years is covered by formal project agreements providing for the expenditure of funds authorized by each Act which contains provisions authorizing the appropriation of funds for Federal-aid highways.

1966—Subsec. (d). Pub. L. 89-574 added subsec. (d).

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 114, 143 of this title; title 40 App. section 201.

[§ 119. Repealed. Pub. L. 86-70, § 21(d)(3), June 25, 1959, 73 Stat. 145, eff. July 1, 1959]

Section, Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 899, related to the administration of Federal aid for highways in Alaska.

EFFECTIVE DATE OF REPEAL

Repeal of this section by Pub. L. 86-70 effective July 1, 1959, see section 21(d) of Pub. L. 86-70 set out as an Effective Date of 1959 Amendment note under section 103 of this title.

§ 120. Federal share payable

(a) Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project, financed with primary, secondary, or urban funds, on the Federal-aid primary system, the Federal-aid secondary system, and the Federal-aid urban system shall either (A) not exceed 70 per centum of the cost of construction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area, or (B) not exceed 70 per centum of the cost of construction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area, except that the Federal share payable on any project in a State shall not exceed 95 per centum of the total cost of any such project. In any case where a State elects to have the Federal share provided in clause (B) of this subsection, the State must enter into an agreement with the Secretary covering a period of not less than one year, requiring such State to use solely for highway construction purposes (other than paying its share of projects approved under this title) during the period covered by such agreement the difference between the State's share as provided in clause (B) and what its share would be if it elected to pay the share provided in clause (A) for all projects subject to such agreement.

(b) Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project, financed with interstate funds on the Interstate System, authorized to be appropriated prior to June 29, 1956, shall not exceed 60 per centum of the cost of construction, except that in the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area. The provisions of subsection (a) of this section shall apply to any project financed with funds authorized by the provisions of section 2 of the Federal-Aid Highway Act of 1952.

(c) Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project on the Interstate System provided for by funds made available under the provisions of section 108(b) of the Federal-Aid Highway Act of 1956 shall be increased to 90 per centum of the total cost thereof, plus a percentage of the remaining 10 per centum of such cost in any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 per centum of the total area of all lands therein, equal to the percentage that the area of such lands in such State is of its total area, except that such Federal share payable on any project in any State shall not exceed 95 per centum of the total cost of such project.

(d) The Federal share payable on account of any project for the elimination of hazards of railway-highway crossings, as more fully described and subject to the conditions and limitations set forth in section 130 of this title, may amount to 100 per centum of the cost of construction of such projects, except that not more than 70 per centum of the right-of-way and property damage costs, paid from public funds, on any such project, may be paid from sums apportioned in accordance with section 104 of this title: *Provided*, That not more than 10 per centum of all the sums apportioned for all the Federal-aid systems for any fiscal year in accordance with section 104 of this title shall be used under this subsection.

(e) The Secretary may rely on a statement from the Secretary of the Interior as to the area of the lands referred to in subsections (a) and (b) of this section. The Secretary of the Interior is authorized and directed to provide such statement annually.

(f) The Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125 of this title shall not exceed 70 per centum of the cost thereof: *Provided*, That, in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of na-

tional forests and national parks and monuments exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area: *Provided further*, That the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads may amount to 100 per centum of the cost thereof, whether or not such highways, roads or trails are on any Federal-aid highway systems. The Secretary may increase the Federal share payable on account of any repair or reconstruction under this section up to 100 per centum of the replacement cost of a comparable facility if he determines it is in the public interest. As used in this section with respect to bridges and in section 144 of this title, "a comparable facility" shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life. Any project agreement for which the final voucher has not been approved by the Secretary on or before the date of this Act may be modified to provide for the Federal share authorized herein.

(g) The Secretary is authorized to cooperate with the State highway departments and with the Department of the Interior in the construction of Federal-aid highways within Indian reservations and national parks and monuments under the jurisdiction of the Department of the Interior and to pay the amount assumed therefor from the funds apportioned in accordance with section 104 of this title to the State wherein the reservations and national parks and monuments are located.

(h) At the request of any State, the Secretary may from time to time enter into agreements with such State to reimburse the State for the Federal share of the costs of preliminary and construction engineering at an agreed percentage of actual construction costs for each project, in lieu of the actual engineering costs for such project. The Secretary shall annually review each such agreement to insure that such percentage reasonably represents the engineering costs actually incurred by such State.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 898; Pub. L. 86-70, § 21(d)(4), (e)(4), June 25, 1959, 73 Stat. 145, 146; Pub. L. 86-342, title I, § 107(b), Sept. 21, 1959, 73 Stat. 613; Pub. L. 86-657, § 3, July 14, 1960, 74 Stat. 522; Pub. L. 88-658, Oct. 13, 1964, 78 Stat. 1090; Pub. L. 89-574, § 9(a), Sept. 13, 1966, 80 Stat. 769; Pub. L. 90-495, §§ 27(b), 34, Aug. 23, 1968, 82 Stat. 829, 835; Pub. L. 91-605, title I, §§ 106(f), 108(a), 109(b), 128, Dec. 31, 1970, 84 Stat. 1718, 1719, 1731.)

REFERENCES IN TEXT

Section 2 of the Federal-Aid Highway Act of 1952, referred to in subsec. (b), means section 2 of Act June 25, 1952, ch. 462, 66 Stat. 159, which is not classified to this Code.

Section 108(b) of the Federal-Aid Highway Act of 1956, referred to in subsec. (c), is set out as a note under section 101 of this title.

On or before the date of this Act, referred to in subsec. (f), probably means on or before the date of Pub. L. 86-342 which was approved on September 21, 1959.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-605, §§ 106(f), 108(a), inserted reference to the Federal-aid urban system, and substituted "70 per centum" for "50 per centum" in two places.

Subsec. (d). Pub. L. 91-605, § 108(a), substituted "70 per centum" for "50 per centum".

Subsec. (f). Pub. L. 91-605, §§ 108(a), 109(b), added definition of "a comparable facility" and substituted "70 per centum" for "50 per centum".

Subsec. (h). Pub. L. 91-605, § 128, added subsec. (h).

1968—Subsec. (a). Pub. L. 90-495, § 34, made provision for an election by the States as to the formula it desired to have its Federal share computed under by adding an optional formula permitting an increase in the Federal share by a percentage of the remaining cost equal to the percentage that the area of specified lands is of the State's total, but not so as to increase the share beyond 95 percent of the total cost of the project, with States exercising the option required to enter into an agreement to use the difference solely for highway construction purposes.

Subsec. (f). Pub. L. 90-495, § 27(b), authorized the Secretary to increase the Federal share payable on account of any repair or reconstruction under this section up to 100 per centum of the replacement cost of a comparable facility if he determines that it is in the public interest.

1966—Subsec. (f). Pub. L. 89-574 added parkways, public land highways, public lands development roads, and trails to the list of road projects on the repair or reconstruction of which the Federal share payable may amount to 100 per centum of the cost.

1964—Subsec. (f). Pub. L. 88-658 provided that in case of any State containing nontaxable Indian lands, and public domain lands exclusive of national forests and national parks and monuments exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area.

1960—Subsec. (a). Pub. L. 86-657 substituted "nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments" for "unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal".

1959—Subsec. (a). Pub. L. 86-70, § 21(e)(4), substituted "subsection (d) of this section" for "subsections (d) and (h) of this section".

Subsec. (f). Pub. L. 86-342 provided that the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, and Indian reservation roads may amount to 100 per centum of the cost thereof, whether or not such highways, roads or trails are on any Federal-aid highway system.

Subsec. (h). Pub. L. 86-70 § 21(d)(4) repealed subsec. (h), which related to contributions by the Territory of Alaska and to the expenditure of Federal funds apportioned to the Territory of Alaska and funds contributed by the Territory.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 108(b) of Pub. L. 91-605, as amended Pub. L. 93-87, title I, § 153, Aug. 13, 1973, 87 Stat. 276, provided that: "The amendments made by subsection (a) of this section [amending subsecs. (a), (d), and (f) of this section] shall take effect with respect to all obligations incurred after June 30, 1973."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment of subsec. (a) by section 34 of Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L.

90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

Amendment of subsec. (f) by section 27(b) of Pub. L. 90-495 applicable to repair or construction with respect to which project agreements have been entered into on or before Jan. 1, 1968, see section 27(c) of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 125 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of subsec. (a) of this section by Pub. L. 86-70 effective July 1, 1959, see section 12(e) of Pub. L. 86-70 set out as an Effective Date of 1959 Amendment note under section 101 of this title.

Repeal of subsec. (h) of this section by Pub. L. 86-70 effective July 1, 1959, see section 21(d) of Pub. L. 86-70 set out as an Effective Date of 1959 Amendment note under section 103 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

FEDERAL SHARE OF PROJECTS APPROVED DURING PERIOD BEGINNING FEBRUARY 12, 1975, AND ENDING SEPTEMBER 30, 1975

Pub. L. 94-30, §§ 1, 2, June 4, 1975, 89 Stat. 171, as amended by Pub. L. 94-280, title I, § 145, May 5, 1976, 90 Stat. 446, provided:

"That, notwithstanding any other provision of law, the Federal share of any project approved by the Secretary of Transportation under section 106(a), and of any project for which the United States becomes obligated to pay under section 117, of title 23, United States Code, during the period beginning February 12, 1975, and ending September 30, 1975 (both dates inclusive), shall be such percentage of the construction cost as the State highway department requests, up to and including 100 per centum.

"Sec. 2. The total amount of such increases in the Federal share as are made pursuant to the first section of this Act for any State shall be repaid to the United States by such State January 1, 1979, at a rate of 20 per centum by January 1, 1977, 30 per centum by January 1, 1978, and 50 per centum by January 1, 1979. If a State fails to make any repayment in accordance with the preceding sentence, the entire unpaid balance shall immediately become due and payable." Such repayments shall be deposited in the Highway Trust Fund. No project shall be approved under section 106 or section 117 of title 23, United States Code, for any project in any State which has failed to make its repayment in accordance with this section until such repayment has been made."

HIGHWAY TRUST FUND

Section 209 of act June 29, 1956, c. 462, title II, 70 Stat. 397, as amended by Pub. L. 86-342, title II, § 202, Sept. 21, 1959, 73 Stat. 615; Pub. L. 86-346, title I, § 104(5), Sept. 22, 1959, 73 Stat. 622; Pub. L. 86-440, § 1(c), Apr. 22, 1960, 74 Stat. 81; Pub. L. 87-61, title II, § 207, June 29, 1961, 75 Stat. 128; Pub. L. 88-578, title II, § 202, Sept. 3, 1964, 78 Stat. 904; Pub. L. 89-44, title II, § 210, title VIII, § 809(e), June 21, 1965, 79 Stat. 144, 168; Pub. L. 91-258, title II, §§ 207(e), 208(g), May 21, 1970, 84 Stat. 249, 252; Pub. L. 91-605, title III, § 301, Dec. 31, 1970, 84 Stat. 1743; Pub. L. 94-273, § 18, Apr. 21, 1976, 90 Stat. 379; Pub. L. 94-280, title III, § 301, May 5, 1976, 90 Stat. 456, provided that:

"(a) CREATION OF TRUST FUND.— There is hereby established in Treasury of the United States a trust fund to be known as the 'Highway Trust Fund' (hereinafter in this section called the 'Trust Fund'). The Trust Fund shall consist of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

"(b) DECLARATION OF POLICY.— It is hereby declared to be the policy of the Congress that if it hereafter appears—

"(1) that the total receipts of the Trust Fund (exclusive of advances under subsection (d) will be less than the total expenditures from such Fund (exclusive of repayments of such advances); or

"(2) that the distribution of the tax burden among the various classes of persons using the Federal-aid highways, or otherwise deriving benefits from such highways, is not equitable, the Congress shall enact legislation in order to bring about a balance of total receipts and total expenditures, or such equitable distribution, as the case may be.

"(c) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

"(1) IN GENERAL.— There is hereby appropriated to the Trust Fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to the following percentages of the taxes received in the Treasury before October 1, 1979, under the following provisions of the Internal Revenue Code of 1954 (or under the corresponding provisions of prior revenue laws)—

"(A) 100 percent of the taxes received after June 30, 1956, under sections 4041 (taxes on diesel fuel and special motor fuels), 4071(a)(4) (tax on tread rubber), and 4081 (tax on gasoline);

"(B) 20 percent of the tax received after June 30, 1956, and before July 1, 1957, under section 4061(a)(1) (tax on trucks, buses, etc.);

"(C) 50 percent of the tax received after June 30, 1957, and before July 1, 1962, under section 4061(a)(1) (tax on trucks, buses, etc.), and 100 percent of the tax received after June 30, 1962, under section 4061(a)(1);

"(D) 37½ percent of the tax received after June 30, 1956, and before July 1, 1957, under section 4071(a)(1) (tax on tires of the type used on highway vehicles);

"(E) 100 percent of the taxes received after June 30, 1957, under section 4071(a)(1), (2), (3), and (5) (taxes on tires of the type used on highway vehicles, other tires, and inner tubes);

"(F) 100 percent of the tax received under section 4481 (tax on use of certain vehicles);

"(G) 100 percent of the floor stocks taxes imposed by section 4226(a); and

"(H) 100 percent of the taxes received after December 31, 1965, under sections 4061(b) (tax on parts and accessories for trucks, buses, etc.) and 4091 (tax on lubricating oil).

In the case of any tax described in subparagraph (H), amounts received during the calendar year 1966 shall be taken into account only to the extent attributable to liability for tax incurred after December 31, 1965.

"(2) [Repealed. Pub. L. 87-61, title II, § 207(b), June 29, 1961, 75 Stat. 128.]

"(3) LIABILITIES INCURRED BEFORE OCTOBER 1, 1979, FOR NEW OR INCREASED TAXES.—There is hereby appropriated to the Trust Fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to the following percentages of the taxes which are received in the Treasury after September 30, 1979, and before July 1, 1980, and which are attributable to liability for tax incurred before October 1, 1979, under the following provisions of the Internal Revenue Code of 1954—

"(A) 100 percent of the taxes under sections 4041 (taxes on diesel fuel and special motor fuels), 4061(b) (tax on parts and accessories for trucks, buses, etc.), 4071(a)(4) (tax on tread rubber), 4081 (tax on gasoline), and 4091 (tax on lubricating oil);

"(B) 20 percent of the tax under section 4061(a)(1) (tax on trucks, buses, etc.);

"(C) 50 percent of the tax under section 4071(a)(1) (tax on tires of the type used on highway vehicles) and 10 percent of the tax under section 4071(a)(3) (tax on inner tubes for tires); and

"(D) 100 percent of the tax under section 4481 (tax on use of certain vehicles).

"(4) METHOD OF TRANSFER.—The amounts appropriated by paragraphs (1), (2), and (3) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund on the basis of estimates by the Secretary of the Treasury of the amounts, referred to in paragraphs (1), (2), and (3) received in the

Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(5) ADJUSTMENTS FOR AVIATION USES.—The amounts described in paragraphs (1)(A) and (3)(A) with respect to any period shall (before the application of this subsection) be reduced by appropriate amounts to reflect any amounts transferred to the Airport and Airway Trust Fund under section 208(b) of the Airport and Airway Revenue Act of 1970 [section 1742(b) of Title 42, The Public Health and Welfare] with respect to such period. The amounts described in paragraphs (1)(E) and (3)(C) with respect to any period shall (before the application of this subsection) be reduced by appropriate amounts to reflect any amounts transferred to the Airport and Airway Trust Fund under section 208(b)(3) of the Airport and Airway Revenue Act of 1970 [section 1742(b)(3) of Title 42] with respect to such period.

"(d) ADDITIONAL APPROPRIATIONS TO TRUST FUND.—There are hereby authorized to be appropriated to the Trust Fund, as repayable advances, such additional sums as may be required to make the expenditures referred to in subsection (f).

"(e) MANAGEMENT OF TRUST FUND.—

"(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Secretary of Commerce [Secretary of Transportation] to report to the Congress not later than the first day of June of each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during each fiscal year thereafter up to and including the fiscal year ending September 30, 1980. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(2) INVESTMENT.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (A) on original issue at the issue price, or (B) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest. Advances to the Trust Fund pursuant to subsection (d) shall not be invested.

"(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

"(4) INTEREST AND CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

"(f) EXPENDITURES FROM TRUST FUND.—

"(1) FEDERAL-AID HIGHWAY PROGRAM.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for making expenditures after June 30, 1956, and before October 1, 1979, to meet those obligations of the United States heretofore or hereafter incurred under the Federal-Aid Road Act approved July 11, 1916, as amended and supplemented, which are attributable to Federal-Aid highways (including those portions of general administrative expenses of the Bureau of Public Roads payable from such appropriations).

"(2) REPAYMENT OF ADVANCES FROM GENERAL FUND.—Advances made pursuant to subsection (d) shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the Trust Fund for such purposes. Such interest shall be at rates computed in the same manner as provided in subsection (e)(2) for special obligations and shall be compounded annually.

"(3) TRANSFERS FROM TRUST FUND FOR GASOLINE AND LUBRICATING OIL USED FOR CERTAIN PURPOSES.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid before July 1, 1980, under sections 6420 (relating to amounts paid in respect of gasoline used on farms), 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems), and 6424 (relating to amounts paid in respect of lubricating oil not used in highway motor vehicles) of the Internal Revenue Code of 1954 on the basis of claims filed for periods beginning after June 30, 1956, and ending before October 1, 1979. This paragraph shall not apply to amounts estimated by the Secretary of the Treasury as paid under section 6421 of such Code with respect to gasoline used after December 31, 1964, in motorboats. This paragraph shall not apply to amounts estimated by the Secretary of the Treasury as paid under sections 6420 and 6421 of such Code with respect to gasoline used after June 30, 1970, in aircraft.

"(4) 1972 FLOOR STOCKS REFUNDS.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the following percentages of the floor stocks refunds made before July 1, 1980, under section 6412(a)(2) of the Internal Revenue Code of 1954—

"(A) 40 percent of the refunds in respect of articles subject to the tax imposed by section 4061(a)(1) of such Code (trucks, buses, etc.);

"(B) 100 percent of the refunds in respect of articles subject to tax under section 4071(a)(1), (3), or (4) of such Code (certain tires, tubes, and tread rubber); and

"(C) 80 percent of the refunds in respect of gasoline subject to tax under section 4081 of such Code (other than gasoline to be used in motorboats, as estimated by the Secretary of the Treasury).

"(5) TRANSFERS FROM THE TRUST FUND FOR SPECIAL MOTOR FUELS AND GASOLINE USED IN MOTORBOATS.—The Secretary of the Treasury shall pay from time to time from the trust fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965 [sections 460*l*-4 to 460*l*-10 of Title 16, Conservation] amounts as determined by him in consultation with the Secretary of Commerce equivalent to the taxes received, on or after January 1, 1965, under section 4041(b) of the Internal Revenue Code of 1954 with respect to special motor fuels used as fuel for the propulsion of motorboats and under section 4081 of such Code with respect to gasoline used as fuel in motorboats

"(6) TRANSFERS FROM THE TRUST FUND FOR INCOME TAX CREDITS ALLOWED FOR CERTAIN USES OF GASOLINE, SPECIAL FUELS, AND LUBRICATING OIL.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 39 of the Internal Revenue Code of 1954 [section 39 of Title 26, Internal Revenue Code] (relating to credit for certain uses of gasoline, special fuels, and lubricating oil) with respect to gasoline, special fuels, and lubricating

oil used before October 1, 1979. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the credits allowed." This paragraph shall not apply to amounts estimated by the Secretary of the Treasury as attributable to the use after June 30, 1970, of gasoline and special fuels in aircrafts.

"(7) TRANSFERS FROM TRUST FUND FOR NONTAXABLE USES OF FUELS.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid before July 1, 1980, under section 6427 of the Internal Revenue Code of 1954 [section 6427 of Title 26] (relating to fuels not used for taxable purposes) on the basis of claims filed for fuels used before October 1, 1979. This paragraph shall not apply to amounts estimated by the Secretary of the Treasury as paid under such section 6427 with respect to fuels used in aircraft.

"(g) ADJUSTMENTS OF APPORTIONMENTS.—The Secretary of the Treasury shall from time to time, after consultation with the Secretary of Commerce, estimate the amounts which will be available in the Highway Trust Fund (excluding repayable advances) to defray the expenditures which will be required to be made from such fund. In any case in which the Secretary of the Treasury determines that, after all other expenditures required to be made from the Highway Trust Fund have been defrayed, the amounts which will be available in such fund (excluding repayable advances) will be insufficient to defray the expenditures which will be required as a result of the apportionment to the States of the amounts authorized to be appropriated for any fiscal year for the construction, reconstruction, or improvement of the Interstate System, he shall so advise the Secretary of Commerce and shall further advise the Secretary of Commerce as to the amount which, after all other expenditures required to be made from such fund have been defrayed, will be available in such fund (excluding repayable advances) to defray the expenditures required as a result of apportionment to the States of Federal-aid highway funds for the Interstate System for such fiscal year. The Secretary of Commerce shall determine the percentage which such amount is of the amount authorized to be appropriate for such fiscal year for the construction, reconstruction, or improvement of the Interstate System and, notwithstanding any other provision of law, shall thereafter apportion to the States for such fiscal year for the construction, reconstruction, or improvement of the Interstate System, in lieu of the amount which but for the provisions of this subsection would be so apportioned, the amount obtained by multiplying the amount authorized to be appropriated for such fiscal year by such percentage. Whenever the Secretary of the Treasury determines that there will be available in the Highway Trust Fund (excluding repayable advances) amounts which, after all other expenditures required to be made from such fund have been defrayed, will be available to defray the expenditures required as a result of the apportionment of any Federal-aid highway funds for the Interstate System previously withheld from apportionment for any fiscal year, he shall so advise the Secretary of Commerce and the Secretary of Commerce shall apportion to the States such portion of the funds so withheld from apportionment as the Secretary of the Treasury has advised him may be so apportioned without causing expenditures from the Highway Trust Fund for the Interstate System to exceed amounts available in such fund (excluding repayable advances) to defray such expenditures. Any funds apportioned pursuant to the provisions of the preceding sentence shall remain available for expenditure until the close of the third fiscal year following that in which apportioned."

PERCENTAGE OF FUNDS CONTRIBUTED BY ALASKA

Section 21(d)(4) of Pub. L. 86-70, which repealed subsec. (h) of this section, provided in part that the provisions of subsec. (h) relating to the percentage of funds to be contributed by Alaska shall continue to apply to funds apportioned to Alaska for fiscal year 1960 and prior fiscal years.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 107, 108, 121, 122, 125, 130, 142, 147, 148, 154, 217, 307 of this title; title 42 sections 3338, 4519

§ 121. Payment to States for construction

(a) The Secretary may, in his discretion, from time to time as the work progresses, make payments to a State for costs of construction incurred by it on a project. These payments shall at no time exceed the Federal share of the costs of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project. Such payments may also be made in the case of any such materials not in the vicinity of such construction if the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in such vicinity.

(b) After completion of a project in accordance with the plans and specifications, and approval of the final voucher by the Secretary, a State shall be entitled to payment out of the appropriate sums apportioned to it of the unpaid balance of the Federal share payable on account of such project.

(c) No payment shall be made under this chapter, except for a project located on a Federal-aid system and covered by a project agreement. No final payment shall be made to a State for its costs of construction of a project until the completion of the construction has been approved by the Secretary following inspections pursuant to section 114(a) of this title.

(d) In making payments pursuant to this section, the Secretary shall be bound by the limitations with respect to the permissible amounts of such payments continued in sections 120 and 130 of this title. Payments for construction engineering on any project financed with Federal-aid highway funds shall not exceed 10 per centum of the Federal share of the cost of construction of such project after excluding from the cost of construction the costs of rights-of-way, preliminary engineering, and construction engineering. However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary.

(e) Such payments shall be made to such official or officials or depository as may be designated by the State highway department and authorized under the laws of the State to receive public funds of the State.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 899; Pub. L. § 7(b), Oct. 24, 1963, 77 Stat. 278; Pub. L. 93-87, title I, § 117, Aug. 13, 1973, 87 Stat. 259; Pub. L. 94-280, title I, § 118(a), May 5, 1976, 90 Stat. 437.)

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-280 substituted "Federal-aid highway funds" for "Federal-aid primary, secondary, or urban funds" and deleted 10 per centum limitation provision for any project financed with interstate funds.

1973—Subsec. (a). Pub. L. 93-87 authorized payments to be made for materials not in the construction vicinity where the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in such vicinity.

1963—Subsec. (d). Pub. L. 88-157 substituted "any project financed with Federal-aid primary, secondary, or urban funds" for "any one project" and provided for limitation, on payments for construction engineering on projects financed with Federal-aid primary, secondary, or urban funds, of 15 percent of Federal share of cost of construction of the project where found by the Secretary to be necessary and for 10-percent limitation on projects financed with interstate funds.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

SUBMISSION OF RECOMMENDATIONS TO CONGRESS FOR REIMBURSEMENT OF STATES FOR CERTAIN HIGHWAYS

Pub. L. 85-845, Aug. 28, 1958, 78 Stat. 1083 required the Secretary of Commerce, within ten days after the first day of the first session of the Eighty-sixth Congress, to submit to Congress recommendations for legislation for the purpose of assisting Congress to determine whether or not to reimburse each State of any portion of a toll or free highway (1) which was on the National System of Interstate and Defense Highways, (2) which met the standards required by the Federal-Aid Highway Act of 1956 for such National System of Interstate and Defense Highways, and (3) the construction of which had been completed since Aug. 2, 1947, or which had been in actual use or under construction by contract, for completion, awarded not later than June 30, 1957.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 122 of this title.

§ 122. Payment to States for bond retirement

Any State that shall use the proceeds of bonds issued by the State, county, city, or other political subdivision of the State for the construction of one or more projects on the Federal-aid primary or Interstate System, or extensions of any of the Federal-aid highway systems in urban areas, may claim payment of any portion of the sums apportioned to it for expenditure on such system to aid in the retirement of the principal of such bonds at their maturities, to the extent that the proceeds of such bonds have been actually expended in the construction of one or more of such projects. Such claim for payment may be made only when all of the provisions of this title have been complied with to the same extent and with the same effect as though payment were to be made to the State under section 121 of this title, instead of this section, and the Federal share payable shall not exceed the pro rata basis of payment authorized in section 120 of this title. This section shall not be construed as a commitment or obligation on the part of the United States to provide funds for the payment of the principal of any such bonds.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 900.)

§ 123. Relocation of utility facilities

(a) When a State shall pay for the cost of relocation of utility facilities necessitated by the construction of a project on the Federal-aid primary or secondary systems or on the Interstate System, including extensions thereof within urban areas, Federal funds may be used to reimburse the State for such cost in the same proportion as Federal funds are expended on the project. Federal funds shall not be used to reimburse the State under this section when the payment to the utility violates the law of the State or violates a legal contract between the utility and the State. Such reimbursement shall be made only after evidence satisfactory to the Secretary shall have been presented to him substantiating the fact that the State has paid such cost from its own funds with respect to Federal-aid highway projects for which Federal funds are obligated subsequent to April 16, 1958, for work, including relocation of utility facilities.

(b) The term "utility", for the purposes of this section, shall include publicly, privately, and cooperatively owned utilities.

(c) The term "cost of relocation", for the purposes of this section, shall include the entire amount paid by such utility properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 900.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 124. Advances to States

If the Secretary shall determine that it is necessary for the expeditious completion of projects on any of the Federal-aid systems, including the Interstate System, he may advance to any State out of any existing appropriations the Federal share of the cost of construction thereof to enable the State highway department to make prompt payments for acquisition of rights-of-way, and for the construction as it progresses. The sums so advanced shall be deposited in a special revolving trust fund, by the State official authorized under the laws of the State to receive Federal-aid highway funds, to be disbursed solely upon vouchers approved by the State highway department for rights-of-way which have been or are being acquired, and for construction which has been actually performed and approved by the Secretary pursuant to this chapter. Upon determination by the Secretary that any part of the funds advanced to any State under the provisions of this section are no longer required, the amount of the advance, which is determined to be in excess of current requirements of the State, shall be repaid upon his demand, and such repayments shall be returned to the credit of the appropriation from which the funds were advanced. Any sum advanced and not repaid on demand shall be deducted from sums due the State for the Federal pro rata share of the cost of construction of Federal-aid projects.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 901.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

ACCELERATION OF PROJECTS

Pub. L. 94-280, title I, § 141, May 5, 1976, 90 Stat. 444, provided that: "The Secretary of Transportation shall carry out a project to demonstrate the feasibility of reducing the time required from the time of request for project approval through the completion of construction of highway projects in areas that as a result of recent or imminent change, including but not limited to change in population or traffic flow resulting from the construction of Federal projects, show a need to construct such projects to relieve such areas from the impact of such change. There is authorized to be appropriated out of the Highway Trust Fund to carry out such project not to exceed $25,000,000."

§ 125. Emergency relief

(a) An emergency fund is authorized for expenditure by the Secretary, subject to the provisions of this section and section 120 of this title, for (1) the repair or reconstruction of highways, roads, and trails which he shall find have suffered serious damage as the result of (A) natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides, or (B) catastrophic failures from any cause, in any part of the United States, and (2) the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State after December 31, 1967, and prior to December 31, 1970, because of imminent danger of collapse due to structural deficiencies or physical deterioration. Subject to the following limitations, there is hereby authorized to be appropriated such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis: (1) Not more than $50,000,000 is authorized to be expended in any fiscal year ending before July 1, 1972, and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after June 30, 1972, and ending before June 1, 1976, to carry out the provisions of this section and an additional amount not to exceed $100,000,000 is further authorized to be expended in the fiscal year ending June 30, 1973, to carry out the provisions of this section, and not more than $25,000,000 for the three-month period beginning July 1, 1976, and ending September 30, 1976, is authorized to be expended to carry out the provisions of this section, and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1976, to carry out the provisions of this section, except that, if in any fiscal year the total of all expenditures under this section is less than the amount authorized to be expended in such fiscal year, the unexpended balance of such amount shall remain available for expenditure during the next two succeeding fiscal years in addition to amounts otherwise available to carry out this section in such years, and (2) 60 per centum of the expenditures under this section for any fiscal year are authorized to be appropriated from the Highway Trust Fund and the remaining 40 per centum of such expenditures are authorized to be appropriated only from any moneys in the Treasury not otherwise appropriated. For the purpose of this section the period beginning July 1, 1976, and ending September 30, 1976, shall be deemed to be a part of the fiscal year ending September 30, 1977. Pending such appropriation or replenishment the Secretary may expend from any funds heretofore or hereafter appropriated for expenditure in accordance with the provisions of this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, such appropriations to be reimbursed from the appropriations herein authorized when made.

(b) The Secretary may expend funds from the emergency fund herein authorized for the repair or reconstruction of highways on the Federal-aid highway systems, including the Interstate System, in accordance with the provisions of this chapter. Except as to highways, roads, and trails mentioned in subsection (c) of this section, no funds shall be so expended unless the Secretary has received an application therefor from the State highway department, and unless an emergency has been declared by the Governor of the State and concurred in by the Secretary, except that if the President has declared such emergency to be a major disaster for the purposes of the Disaster Relief Act of 1974 (Public Law 93-288) concurrence of the Secretary is not required.

(c) The Secretary may expend funds from the emergency fund herein authorized, either independently or in cooperation with any other branch of the Government, State agency, organization, or person, for the repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads, whether or not such highways, roads, or trails are on any of the Federal-aid highway systems.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 901; Pub. L. 86-342, title I, § 107(a), Sept. 21, 1959, 73 Stat. 612; Pub. L. 89-574, § 9(b), (c), Sept. 13, 1966, 80 Stat. 769; Pub. L. 90-495, § 27(a), Aug. 23, 1968, 82 Stat. 829; Pub L. 91-605, title I, § 109(a), Dec. 31, 1970, 84 Stat. 1718; Pub. L. 92-361, Aug. 3, 1972, 86 Stat. 503; Pub L. 94-280, title I, § 119, May 5, 1976, 90 Stat. 437.)

REFERENCES IN TEXT

The Disaster Relief Act of 1974, referred to in subsec. (b), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables volume.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-280, § 119(a)(1)-(3), inserted ", and ending before June 1, 1976," after "June 30, 1972,", authorized expenditure of not more than $25,000,000 for the three-month period beginning July 1, 1976, and ending September 30, 1976, and not more than $100,000,000 in any one fiscal year commencing after September 30, 1976, and inserted provision that for the purposes of this section the period beginning July 1, 1976, and ending September 30, 1976, shall be deemed to be a part of the fiscal year ending September 30, 1977.

Subsec. (b). Pub. L. 94-280, § 119(b), excepted from the requirement of a concurrence by the Secretary an

emergency declared by the President to be a major disaster for purposes of the Disaster Relief Act of 1974.

1972—Subsec. (a). Pub. L. 92-361 substituted provisions setting forth maximum expendable amounts for fiscal years ending July 1, 1972 and for fiscal years commencing after June 30, 1972 and an additional amount for fiscal year ending June 30, 1973 for provisions setting forth maximum expendable amount for any fiscal year.

1970—Subsec. (a). Pub. L. 91-605 provided emergency relief for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State after December 31, 1967, and prior to December 31, 1970, because of imminent danger of collapse due to structural deficiencies or physical deterioration.

1968—Subsec. (a). Pub. L. 90-495 permitted the use of the emergency fund for repair or construction caused by other than natural catastrophes.

1966—Subsec. (a). Pub. L. 89-574, § 9(c), raised from $30,000,000 to $50,000,000 the upper limit on allowable annual appropriations to establish and replenish the fund, provided that, if, in any fiscal year the total of all expenditures under this section is less than $50,000,000, the unexpended balance of such amount shall remain available for expenditure during the next two succeeding fiscal years in addition to amount otherwise available, and provided that 60 per centum of the expenditures under this section are authorized to be appropriated from the Highway Trust Fund and the remaining 40 per centum of such expenditures are authorized to be appropriated only from any monies in the Treasury not otherwise appropriated.

Subsec. (c). Pub. L. 89-574, § 9(b), added parkways, public lands highways, public lands development roads, and trails to the list of types of roads the repair or reconstruction of which may be paid for out of the emergency fund.

1959—Pub. L. 86-342, among other changes, made expenditures from the emergency fund subject to the provisions of section 120 of this title, and permitted the Secretary to expend funds from the emergency fund, either independently or in cooperation with any other branch of the Government, State agency, organization, or person, for the repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, and Indian reservation roads, whether or not such highways, roads, or trails are on any of the Federal-aid highway systems.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 27(c) of Pub. L. 90-495 provided that: "The amendments made by this section [amending this section and section 120 of this title] shall be applicable to repair or reconstruction with respect to which project agreements have been entered into on or after January 1, 1968."

EFFECTIVE DATE OF 1966 AMENDMENT

Section 9(d) of Pub. L. 89-574 provided that: "The amendments made by this section [amending subsecs. (a) and (c) of this section] shall take effect July 1, 1966."

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 120 of this title.

§ 126. Diversion

(a) Since it is unfair and unjust to tax motor-vehicle transportation unless the proceeds of such taxation are applied to the construction, improvement, or maintenance of highways, after June 30, 1935, Federal aid for highway construction shall be extended only to those States that use at least the amounts provided by law on June 18, 1934, for such purposes in each State from State motor vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor-vehicle owners and operators of all kinds for the construction, improvement, and maintenance of highways and administrative expenses in connection therewith, including the retirement of bonds for the payment of which such revenues have been pledged, and for no other purposes, under such regulations as the Secretary of Transportation shall promulgate from time to time

(b) In no case shall the provisions of this section operate to deprive any State of more than one-third of the entire apportionment authorized under this chapter to which that State would be entitled in any fiscal year. The amount of any reduction in a State's apportionment shall be reapportioned in the same manner as any other unexpended balance at the end of the period during which it otherwise would be available in accordance with section 104(b) of this title.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 901; Pub. L. 93-87, title I, § 152(3), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-87 substituted "Secretary of Transportation" for "Secretary of Commerce".

§ 127. Vehicle weight and width limitations—Interstate System

No funds authorized to be appropriated for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 shall be apportioned to any State within the boundaries of which the Interstate System may lawfully be used by vehicles with weight in excess of twenty thousand pounds carried on any one axle, including all enforcement tolerances; or with a tandem axle weight in excess of thirty-four thousands pounds, including all enforcement tolerances; or with an overall gross weight on a group of two or more consecutive axles produced by application of the following formula:

$$W=500[(LN/N-1)+12N+36]$$

where W=overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L=distance in feet between the extreme of any group of two or more consecutive axles, and N=number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more: *Provided*, That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, or with a width in excess of ninety-six inches, or the corresponding maximum weights or maximum widths permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is greater. Any

amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse. This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof that could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974. With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956. Notwithstanding any limitation relating to vehicle widths contained in this section, a State may permit any bus having a width of 102 inches or less to operate on any lane of 12 feet or more in width on the Interstate System.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 902; Pub. L. 86-624, § 17(e), July 12, 1960, 74 Stat. 416; Pub. L. 93-643, § 106, Jan. 4, 1975, 88 Stat. 2283; Pub. L. 94-280, title I, § 120, May 5, 1976, 90 Stat. 438.)

REFERENCES IN TEXT

Section 108(b) of the Federal-Aid Highway Act of 1956 referred to in the text, is set out as a note under section 101 of this title.

Date of enactment of Federal-Aid Highway Amendments of 1974, referred to in text, means Jan. 4, 1975, the date on which Pub. L. 93-643 was approved.

AMENDMENTS

1976—Pub. L. 94-280 authorized a State to permit any bus with a width of 102 inches or less to operate on any lane of twelve feet or more in width on the Interstate System.

1975—Pub. L. 93-643 substituted weight limitations of 20,000 lbs. carried on any one axle, including all enforcement tolerances, for 18,000 lbs. carried on any one axle, of 34,000 lbs. for tandem axle weight, including all enforcement tolerances, for 32,000 lbs. for tandem axle weight, overall gross weight limitation of 80,000, including enforcement tolerances, for overall gross weight of 73,280 lbs. prescribed a formula for determination of overall gross weight on a group of two or more consecutive axles, authorized a gross load of 34,000 lbs. each for two consecutive sets of tandem axles having an overall distance of 36 or more feet between such axles, excepted from the new weight limitations cases of overall gross weight of any group of two or more consecutive axles, on Jan. 4, 1975, and inserted after the third sentence reading "This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof that could be lawfully operated within such State on July 1, 1956" the text ", except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974".

1960—Pub. L. 86-624 made the laws or regulation in effect on Feb. 1, 1960, applicable, with respect to the State of Hawaii, for the purposes of this section, in lieu of those in effect on July 1, 1956.

STEERING AXLE STUDY; REPORT TO CONGRESS

Section 210 of Pub. L. 94-280 provided that: "The Secretary of Transportation is directed to conduct an investigation into the relationship between the gross load on front steering axles of truck tractors and the safety of operation of vehicle combinations of which such truck tractors are a part. Such investigation shall be conducted in cooperation with representatives of (A) manufacturers of truck tractors and related equipment, (B) labor, and (C) users of such equipment. The Secretary shall report the results of such study to the Congress not later than July 1, 1977."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 141 of this title.

§ 128. Public hearings

(a) Any State highway department which submits plans for a Federal-aid highway project involving the by passing of or, going through any city, town, or village, either incorporated or unincorporated, shall certify to the Secretary that it has had public hearings, or has afforded the opportunity for such hearings, and has considered the economic and social effects of such a location, its impact on the environment, and its consistency with the goals and objectives of such urban planning as has been promulgated by the community. Any State highway department which submits plans for an Interstate System project shall certify to the Secretary that it has had public hearings at a convenient location, or has afforded the opportunity for such hearings for the purpose of enabling persons in rural areas through or contiguous to whose property the highway will pass to express any objections they may have to the proposed locations of such highway. Such certification shall be accompanied by a report which indicates the consideration given to the economic, social, environmental and other effects of the plan or highway location or design and various alternatives which were raised during the hearing or which were otherwise considered.

(b) When hearings have been held under subsection (a), the State highway department shall submit a copy of the transcript of said hearings to the Secretary, together with the certification and report.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 902; Pub. L. 90-495, § 24, Aug. 23, 1968, 82 Stat. 828; Pub. L. 91-605, title I, § 135, Dec. 31, 1970, 84 Stat. 1734.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-605, § 135(a), provided for submission of a report by the State highway department involved indicating consideration given to economic, social, environmental, and other effects of the plan or highway location or design plus the various alternatives which were considered.

Subsec. (b). Pub. L. 91-605, § 135(b), made reference to report to be submitted by the State highway department together with the certification of public hearings.

1968—Subsec. (a). Pub. L. 90-495 added the social effect of projects, the impact on environment, and their consistency with the goals and objectives of such urban planning as has been promulgated by the community to the list of factors to be considered by State highway departments in looking over projects involving the bypassing or passing through of municipalities.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 129. Toll roads, bridges, tunnels, and ferries

(a) Notwithstanding the provisions of section 301 of this title, the Secretary may permit Federal participation, on the same basis and in the same manner as in the construction of free highways under this chapter, in the construction of any toll bridge, toll tunnel, or approach thereto, upon compliance with the conditions contained in this section. Such bridge, tunnel, or approach thereto, must be publicly owned and operated. Federal funds may participate in the approaches to a toll bridge or toll tunnel whether such bridge or tunnel is to be or has been constructed, or acquired, by the State or other public authority. The State highway department or departments must be a party or parties to an agreement with the Secretary whereby it or they undertake performance of the following obligations:

(1) all tolls received from the operation of the bridge or tunnel, less the actual cost of such operation and maintenance, shall be applied to the repayment to the State or other public authority of all of the costs of construction or acquisition of such bridge or tunnel, except that part which was contributed by the United States;

(2) no tolls shall be charged for the use of such bridge or tunnel after the State or other public authority shall have been so repaid; and

(3) after the date of final repayment, the bridge or tunnel shall be maintained or operated as a free bridge or free tunnel; except in the case of a bridge which connects the United States with any foreign country: *Provided*, That such tolls or charges do not exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management: *And further provided*, That the entity or governmental instrumentality responsible for the operation of the portion of the bridge within the jurisdiction of the foreign country is charging tolls for the use of the bridge.

(b) Upon a finding by the Secretary that such action will promote the development of an integrated Interstate System, the Secretary is authorized to approve as part of the Interstate System any toll road, bridge or tunnel, now or hereafter constructed which meets the standards adopted for the improvement of projects located on the Interstate System, when such toll road, bridge or tunnel is located on a route heretofore or hereafter designated as a part of the Interstate System. No Federal-aid highway funds shall be expended for the construction, reconstruction or improvement of any such toll road, except to the extent permitted by law after June 29, 1956. When any such toll road which the Secretary has approved as a part of the Interstate System is made a toll-free facility, Federal-aid highway funds apportioned under section 104(b)(5) of this title may be expended for the construction, reconstruction, or improvement of that road to meet the standards adopted for the improvement of projects located on the Interstate System. No Federal-aid highway funds shall be expended for the construction, reconstruction or improvement of any such toll bridge or tunnel, except to the extent permitted by law on or after June 29, 1956. After June 30, 1968, all agreements between the Secretary and a State highway department for the construction of projects on the Interstate System shall contain a clause providing that no toll road will be constructed after June 30, 1968, on the interstate highway route involved without the official concurrence of the Secretary. The Secretary shall not concur in any such construction unless he makes an affirmative finding that, under the particular circumstances existing, the construction of such road as a toll facility rather than a toll-free facility is in the public interest. The preceding two sentences shall not apply to any toll bridge or toll tunnel.

(c) Funds authorized for expenditure on any of the Federal-aid highway systems, including the Interstate System, shall be available for expenditure on projects approaching any toll road, bridge or tunnel to a point where such project will have some use irrespective of its use for such toll road, bridge or tunnel.

(d) Funds authorized for the Interstate System shall be available for expenditure on Interstate System projects approaching any toll road on the Interstate System, although the project has no use other than an approach to such toll road, if an agreement satisfactory to the Secretary has been reached with the State prior to the approval of such project—

(1) that the section of toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against such section of toll road covered in the agreement and their maintenance and operation and debt service during the period of toll collections, and

(2) that there is one or more reasonably satisfactory alternate free routes available to traffic by which the toll section of the system may be bypassed.

(e) Notwithstanding the provisions of subsection (b) of this section, the Secretary may permit Federal participation in the reconstruction and improvement of any toll road providing for only two lanes of traffic, which is designated part of the Interstate System as he may find necessary to bring such two lane toll road to the geometric and construction standards for the Interstate System in order to provide for the safe use of such highway as part of the Interstate System and to facilitate the removal of tolls therefrom. Federal participation in such reconstruction and improvement shall be on the same basis and in the same manner as in the construction of free Interstate System highways under this chapter. No Federal participation shall be permitted pursuant to this subsection except on two lane toll roads which were designated as a part of the Interstate System on or before June 30, 1973. Before Federal participation under this subsection, the State highway department and the toll road authority involved shall enter into an agreement with the Secretary which shall provide that—

(1) no indebtedness which is to be liquidated by the collection of tolls (in addition to indebtedness in existence on date of enactment

in this subsection) shall be incurred after the date of enactment of this subsection;

(2) all tolls received from the operation of the toll road, less the actual cost of such operation and maintenance, shall be applied to the repayment of only those bonds outstanding on the date of enactment of this subsection constituting a valid lien against such toll road and its maintenance and operation and debt service during the period of toll collection;

(3) the toll road shall become free to the public upon collection of tolls sufficient to liquidate all such bonds.

(f) Notwithstanding the provisions of section 301 of this title, the Secretary may permit Federal participation under this title in the construction of a project constituting an approach to a ferry, whether toll or free, the route of which has been approved under section 103(b) or (c) of this title as a part of one of the Federal-aid systems and has not been designated as a route on the Interstate System. Such ferry may be either publicly or privately owned and operated, but the operating authority and the amount of fares charged for passage shall be under the control of a State agency or official, and all revenues derived from publicly owned or operated ferries shall be applied to payment of the cost of construction or acquisition thereof, including debt service, and to actual and necessary costs of operation, maintenance, repair, and replacement.

(g) Notwithstanding section 301 of this title, the Secretary may permit Federal participation under this title in the construction of ferry boats, whether toll or free, subject to the following conditions:

(1) It is not feasible to build a bridge, tunnel, combination thereof, or other normal highway structure in lieu of the use of such ferry.

(2) The operation of the ferry shall be on a route which has been approved under section 103(b) or (c) of this title as a part of one of the Federal-aid systems within the State and has not been designated as a route on the Interstate System.

(3) Such ferry shall be publicly owned and operated.

(4) The operating authority and the amount of fares charged for passage on such ferry shall be under the control of the State, and all revenues derived therefrom shall be applied to actual and necessary costs of operation, maintenance, and repair.

(5) Such ferry may be operated only within the State (including the islands which comprise the State of Hawaii and the islands which comprise the Commonwealth of Puerto Rico) or between adjoining States. Except with respect to operations between the islands which comprise the State of Hawaii and operations between the islands which comprise the Commonwealth of Puerto Rico and operations between any two points in Alaska and between Alaska and Washington, including stops at appropriate points in the Dominion of Canada, no part of such ferry operation shall be in any foreign or international waters.

(6) No such ferry shall be sold, leased, or otherwise disposed of without the approval of the Secretary. The Federal share of any proceeds from such a disposition shall be credited to the unprogramed balance of Federal-aid highway funds of the same class last apportioned to such State. Any amount so credited shall be in addition to all other funds then apportioned to such State and available for expenditure in accordance with the provisions of this title.

(h) Notwithstanding the provisions of section 301 of this title, in the case of each State which, before January 1, 1975, shall have constructed or acquired any interstate toll bridge (including approaches thereto), which before January 1, 1975, caused such toll bridge to be made free, which bridge is owned and maintained by such State or by a political subdivision thereof, and which bridge is on the Federal-aid primary system (other than the Interstate System), sums apportioned to such State in accordance with paragraphs (1) and (3) of subsection (b) of section 104 of this title shall be available to pay the Federal share of a project under this subsection of (1) such amount as the Secretary determines to be the reasonable value of such bridge after deducting therefrom that portion of such value attributable to any grant or contribution previously paid by the United States in connection with the construction or acquisition of such bridge, and exclusive of rights-of-way, or (2) the amount by which the principal amount of the outstanding unpaid bonds or other obligations created and issued for the construction or acquisition of such bridge exceeds the amount of any funds accumulated or provided for their amortization, on the date such bridge is made free, whichever is the lesser amount.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 902; Pub. L. 86-657, §§ 5, 8(a), July 14, 1960, 74 Stat. 523, 524; Pub. L. 90-495, § 28, Aug. 23, 1968, 82 Stat. 829; Pub. L. 91-605, title I, §§ 133, 139, Dec. 31, 1970, 84 Stat. 1732, 1736; Pub. L. 92-434, § 7, Sept. 26, 1972, 86 Stat. 732; Pub. L. 93-87, title I, §§ 118, 132, 139, Aug. 13, 1973, 87 Stat. 259, 267, 270; Pub. L. 93-643, § 108, Jan. 4, 1975, 88 Stat. 2284; Pub. L. 94-280, title I, § 121, May 5, 1976, 90 Stat. 438.)

AMENDMENTS

1976—Subsec. (g)(5). Pub. L. 94-280 authorized ferry operations within the islands which comprise the Commonwealth of Puerto Rico and excepted ferry operations between the islands which comprise the Commonwealth of Puerto Rico from the prohibition of ferry operations in foreign or international waters.

1975—Subsec. (g)(5). Pub. L. 93-643 substituted "operations between the islands which comprise the State of Hawaii and operations between any two points in Alaska and between Alaska and Washington, including stops at appropriate points in the Dominion of Canada" for "operations between the islands which comprise the State of Hawaii and operations between the States of Alaska and Washington, or between any two points within the State of Alaska".

1973—Subsec. (b). Pub. L. 93-87, § 118(a), inserted third sentence providing that when any toll road which the Secretary has approved as a part of the Interstate System is made a toll-free facility, Federal-aid highway funds apportioned under section 104(b)(5) of this title may be expended for the construction, reconstruction, or improvement of that road to meet the

standards adopted for the improvement of projects located on the Interstate System.

Subsec. (e). Pub. L. 93-87, § 118(b), struck from first sentence "on the date of enactment of this subsection" preceding "as he may find necessary" and substituted in the third sentence "1973" for "1968".

Subsec. (g). Pub. L. 93-87, § 139, redesignated the second subsec. (f) as (g) and in par. (5) substituted "may be operated" for "shall be operated", inserted "(including the islands which comprise the State of Hawaii)" following "within the State", and excepted operations between the islands which comprise the State of Hawaii and operations between the States of Alaska and Washington, or between any two points within the State of Alaska from the prohibition against ferry operations in foreign or international waters.

Subsec. (h). Pub. L. 93-87, § 132, added subsec. (h).

1972—Subsec. (a)(3). Pub. L. 92-434 substituted "or" for "and" making text read "maintained or operated", and required domestic and foreign tolls for international bridges, and that the tolls be limited to amount necessary for maintenance, repair, and operation thereof.

1970—Subsec. (e). Pub. L. 91-605, § 133, added subsec. (e). Former subsec. (e), pertaining to ferry approaches, was redesignated subsec. (f).

Subsec. (f). Pub. L. 91-605, §§ 133, 139, redesignated subsec. (e), pertaining to ferry approaches, as subsec. (f) and added a new subsec. (f) dealing with ferry boats.

1968—Subsec. (b). Pub. L. 90-495 required that, after June 30, 1968, as a condition for the addition of toll highway facilities on the Interstate System, the approval of the Secretary is required, with an affirmative finding that the construction of the road as a toll facility rather than a toll-free facility is in the public interest, but with such limitation on the construction of toll facilities not to extend to toll bridges and tunnels.

1960—Pub. L. 86-657, § 5(b), included ferries in the catchline.

Subsec. (c). Pub. L. 86-657, § 8(a), eliminated words "under prior Acts" which followed "Funds authorized".

Subsec. (e). Pub. L. 86-657, § 5(a), added subsec. (e).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

RICHMOND-PETERSBURG TURNPIKE

Section 131 of Pub. L. 91-605 provided that: "The Secretary of Transportation is authorized to amend any agreement heretofore entered into under the provisions of section 129(d) of title 23, United States Code, in order to permit the continuation of tolls on the existing Richmond-Petersburg Turnpike to finance the construction within the existing termini of such turnpike of two lanes thereon in addition to the lanes in existence on the date of enactment of this section [Dec. 31, 1970] necessary to meet traffic and highway safety requirements. Any amended agreement entered into for such purposes shall provide assurances that the existing turnpike (including the additional lanes) shall become free to the public upon the collection of tolls sufficient to liquidate all construction costs, and the costs of maintenance, operation, and debt service during the period of toll collections to liquidate such construction costs, but in no event shall tolls be collected after date of maturity of those bonds outstanding on the date of enactment of this section [Dec. 31, 1970] issued for construction of such turnpike having the latest maturity date."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 148, 301 of this title; title 33 section 535f.

§ 130. Railway-highway crossings

(a) Except as provided in subsection (d) of section 120 of this title and subsection (b) of this section, the entire cost of construction of projects for the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings, may be paid from sums apportioned in accordance with section 104 of this title. In any case when the elimination of the hazards of a railway-highway crossing can be effected by the relocation of a portion of a railway at a cost estimated by the Secretary to be less than the cost of such elimination by one of the methods mentioned in the first sentence of this section, then the entire cost of such relocation project, except as provided in subsection (d) of section 120 of this title and subsection (b) of this section, may be paid from sums apportioned in accordance with section 104 of this title.

(b) The Secretary may classify the various types of projects involved in the elimination of hazards of railway-highway crossings, and may set for each such classification a percentage of the costs of construction which shall be deemed to represent the net benefit to the railroad or railroads for the purpose of determining the railroad's share of the cost of construction. The percentage so determined shall in no case exceed 10 per centum. The Secretary shall determine the appropriate classification of each project.

(c) Any railroad involved in a project for the elimination of hazards of railway-highway crossings paid for in whole or in part from sums made available for expenditure under this title, or prior Acts, shall be liable to the United States for the net benefit to the railroad determined under the classification of such project made pursuant to subsection (b) of this section. Such liability to the United States may be discharged by direct payment to the State highway department of the State in which the project is located, in which case such payment shall be credited to the cost of the project. Such payment may consist in whole or in part of materials and labor furnished by the railroad in connection with the construction of such project. If any such railroad fails to discharge such liability within a six-month period after completion of the project, it shall be liable to the United States for its share of the cost, and the Secretary shall request the Attorney General to institute proceedings against such railroad for the recovery of the amount for which it is liable under this subsection. The Attorney General is authorized to bring such proceedings on behalf of the United States, in the appropriate district court of the United States, and the United States shall be entitled in such proceedings to recover such sums as it is considered and adjudged by the court that such railroad is liable for in the premises. Any amounts recovered by the United States under this subsection shall be credited to miscellaneous receipts.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 903.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

DEMONSTRATION PROJECT, RAILROAD-HIGHWAY CROSSINGS; REPORTS TO PRESIDENT AND CONGRESS; APPROPRIATIONS AUTHORIZATION; HIGHWAY SAFETY STUDY, REPORT TO CONGRESS

Pub. L. 93-87, title I, § 163, Aug. 13, 1973, 87 Stat. 280, as amended by Pub. L. 93-643, § 104, Jan. 4, 1975, 88 Stat. 2282; Pub. L. 94-280, title I, § 140(a) to (e), May 5, 1976, 90 Stat. 444, provided that:

"(a)(1) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out demonstration projects in Lincoln, Nebraska, Wheeling, West Virginia, and Elko, Nevada, for the relocation of railroad lines from the central area of the cities in conformance with the methodology developed under proposals submitted to the Secretary by the respective cities. The cities shall (1) have a local agency with legal authority to relocate railroad facilities, levy taxes for such purpose, and a record of prior accomplishment; and (2) have a current relocation plan for such lines which has a favorable benefit-cost ratio involving and having the unanimous approval of three or more class 1 railroads in Lincoln, Nebraska, and the two class 1 railroads in Wheeling, West Virginia, and Elko, Nevada, and multicivic, local, and State agencies, and which provides for the elimination of a substantial number of the existing railway-road conflict points within the city.

"(2) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Lafayette, Indiana, for relocation of railroad lines from the central area of the city. There are authorized to be appropriated to carry out this paragraph $360,000 for the fiscal year ending June 30, 1975.

"(b) The Secretary of Transportation shall carry out a demonstration project for the elimination or protection of certain public ground-level rail-highway crossings in, or in the vicinity of, Springfield, Illinois.

"(c) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out demonstration projects in Brownsville, Texas, and Matamoros, Mexico, for the relocation of railroad lines from the central area of the cities in conformance with the methodology developed under proposals submitted to the Secretary by the Brownsville Navigation District, providing for the construction of an international bridge and for the elimination of a substantial number of existing railway-road conflict points within the cities.

"(d) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in East Saint Louis, Illinois, for the relocation of rail lines between Thirteenth and Forty-third Streets, in accordance with methodology approved by the Secretary. The Secretary of Transportation shall carry out a demonstration project for the relocation of rail lines in the vicinity of Carbondale, Illinois.

"(e) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in New Albany, Indiana, for the elimination of the existing rail loop and relocation of rail lines to a location between Vincennes Street and East Eighth Street, in accordance with methodology approved by the Secretary.

"(f) The Secretary of Transportation shall carry out demonstration projects for the construction of an overpass at the rail-highway grade crossing on Cottage Grove Avenue between One Hundred Forty-second Street and One Hundred Thirty-eighth Street in the village of Dolton, Illinois, and the construction of an overpass at the rail-highway grade crossing at Vermont Street and the Rock Island Railroad tracks in the city of Blue Island, Illinois.

"(g) The Secretary of Transportation shall carry out a demonstration project for the elimination of the ground level railroad highway crossing on United States Route 69 in Greenville, Texas.

"(h) The Secretary of Transportation shall carry out a demonstration project in Anoka, Minnesota, for the construction of an underpass at the Seventh Avenue and County Road 7 railroad-highway grade crossing.

"(i) The Secretary of Transportation shall carry out a demonstration project in Metairie, Jefferson Parish, Louisiana, for the relocation or grade separation of rail lines whichever he deems most feasible in order to eliminate certain grade level railroad highway crossings.

"(j) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Augusta, Georgia, for the relocation of railroad lines and for the purpose of eliminating highway railroad grade crossings.

"(k) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Pine Bluff, Arkansas, for the relocation of railroad lines for the purpose of eliminating highway railroad grade crossings.

"(l) The Secretary of Transportation shall carry out a demonstration project in Sherman, Texas, for the relocation of rail lines in order to eliminate the ground level railroad crossing at the crossing of the Southern Pacific and Frisco Railroads with Grand Avenue-Roberts Road.

"(m) The Federal share payable on account of such projects shall be that provided in section 120 of this title except that in the case of projects authorized by subsections (i), (j), (k), and (l), the Federal share payable on account of such projects shall not exceed 70 per centum and the remaining costs of such projects shall be paid by the State or local governments.

"(n) The Secretary shall make annual reports and a final report to the President and the Congress with respect to his activities pursuant to this section.

"(o) There is authorized to be appropriated to carry out this section (other than subsection (l)), not to exceed $15,000,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976, $6,250,000, for the period beginning July 1, 1976, and ending September 30, 1976, $26,400,000 for the fiscal year ending September 30, 1977, and $51,400,000 for the fiscal year ending September 30, 1978, except that not more than two-thirds of all funds authorized and expended under authority of this section in any fiscal year shall be appropriated out of the Highway Trust fund.

"(p) The Secretary, in cooperation with State highway departments and local officials, shall conduct a full and complete investigation and study of the problem of providing increased highway safety by the relocation of railroad lines from the central area of cities on a nationwide basis, and report to the Congress his recommendations resulting from such investigation and study not later than July 1, 1975, including an estimate of the cost of such a program. Funds authorized to carry out section 307 of title 23, United States Code, are authorized to be used to carry out the investigation and study required by this subsection."

DEMONSTRATION PROJECT, RAILROAD-HIGHWAY CROSSINGS; INCLUSION OF PROJECTS AT TERRE HAUTE, INDIANA

Pub. L. 94-387, title I, § 101, Aug. 14, 1976, 90 Stat. 1176, provided in part: "That section 163 of Public Law 93-87 [set out as a note above] is hereby amended to include projects at Terre Haute, Indiana."

RAIL-HIGHWAY CROSSINGS

Pub. L. 93-87, title II, § 203, Aug. 13, 1973, 87 Stat. 283, as amended by Pub. L. 94-280, title II, § 203, May 5, 1976, 90 Stat. 452, provided that:

"(a) [State survey; projects and signs] Each State shall conduct and systematically maintain a survey of all highways to identify those railroad crossings which

may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose. At a minimum, such a schedule shall provide signs for all railroad-highway crossings.

"(b) [Hazard elimination on Federal-aid system (other than Interstate System); appropriations authorization; protective devices; funds restriction] (1) In addition to funds which may be otherwise available to carry out section 130 of title 23, United States Code, there is authorized to be appropriated out of the Highway Trust Fund for projects for the elimination of hazards of railway-highway crossings, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, $75,000,000 for the fiscal year ending June 30, 1976, $125,000,000 for the fiscal year ending September 30, 1977, and $125,000,000 for the fiscal year ending September 30, 1978. At least half of the funds authorized and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Sums authorized to be appropriated by this subsection shall be available for obligation in the same manner as funds apportioned under chapter 1 of title 23, United States Code.

"(2) Funds authorized by this subsection shall be available solely for expenditure for projects on any Federal-aid system (other than the Interstate System).

"(c) [Hazard elimination on non-Federal-aid system; appropriations authorization; chapter 1 provisions applicable] There is authorized to be appropriated for projects for the elimination of hazards of railway-highway crossings on roads other than those on any Federal-aid system $18,750,000 for the three-month period ending September 30, 1976. $75,000,000 for the fiscal year ending September 30, 1977, and $75,000,000 for the fiscal year ending September 30, 1978. Sums apportioned under this section for projects under this subsection shall be subject to all of the provisions of chapter 1 of title 23, United States Code, applicable to highways on the Federal-aid system, except the formula for apportionment, the requirement that these roads be on the Federal-aid system, and those other provisions determined by the Secretary to be inconsistent with this section.

"(d) [State apportionment; Federal share] 50 per centum of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under subsection (a)(1) of section 104 of the Federal-Aid Highway Act of 1973 [see note hereunder] and 50 per centum of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under subsection (a)(2) of section 104 of the Federal-aid Highway Act of 1973 [see note hereunder]. 50 percent of the funds made available in accordance with subsection (c) shall be apportioned to the states in the same manner as sums authorized to be appropriated under subsection (a)(1) of section 104 of the Federal-Aid Highway Act of 1973 [see note hereunder] and 50 percent of the funds made available in accordance with subsection (c) shall be apportioned to the States in the same manner as sums authorized to be appropriated under subsection (a)(2) of section 104 of the Federal-Aid Highway Act of 1973. The Federal share payable on account of any such project shall be 90 per centum of the cost thereof.

"(e) [Reports to Secretary of Transportation and Congress] Each State shall report to the Secretary of Transportation not later than September 30, 1974, and not later than September 30 of each year thereafter, on the progress being made to implement the railroad-highway crossings program authorized by this section and the effectiveness of such improvements. Each State report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations. The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1975, and not later than January 1, of each year thereafter, on the progress being made by the States in implementing projects to improve railroad-highway crossings. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, nature of treatment, and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a), and include recommendation for future implementation of the railroad-highway crossings program.

"(f) [Matching funds] Funds authorized by this section may be used to provide local government with funds to be used on a matching basis when State funds are available which may only be spent when local government produces matching funds for the improvement of railroad crossings."

Highway authorizations provisions of section 104(a)(1) and (2) of Pub. L. 93-87, referred to in section 203(d) of Pub. L. 93-87 provided that:

"(a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

"(1) For the Federal-aid primary system in rural areas, out of the Highway Trust Fund, $680,000,000 for the fiscal year ending June 30, 1974, $700,000,000 for the fiscal year ending June 30, 1975, and $700,000,000 for the fiscal year ending June 30, 1976. For the Federal-aid secondary system in rural areas, out of Highway Trust Fund, $390,000,000 for the fiscal year ending June 30, 1974, $400,000,000 for the fiscal year ending June 30, 1975, and $400,000,000 for the fiscal year ending June 30, 1976.

"(2) For the Federal-aid urban system, out of the Highway Trust Fund, $780,000,000 for the fiscal year ending June 30, 1974, $800,000,000 for the fiscal year ending June 30, 1975, and $800,000,000 for the fiscal year ending June 30, 1976. For the extensions of the Federal-aid primary and secondary systems in urban areas, out of the Highway Trust Fund $290,000,000 for the fiscal year ending June 30, 1974, $300,000,000 for the fiscal year ending June 30, 1975, and $300,000,000 for the fiscal year ending June 30, 1976."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 120, 121 of this title.

§ 131. Control of outdoor advertising

(a) The Congress hereby finds and declares that the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of outdoor advertising signs, displays, and devices which are within six hundred and sixty feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, and Federal-aid highway funds apportioned on or after January 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and

devices which are more than six hundred and sixty feet off the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

(c) Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall, pursuant to this section, be limited to (1) directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, (3) signs, displays, and devices advertising activities conducted on the property on which they are located, and (4) signs lawfully in existence on October 22, 1965, determined by the State subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, or historic or artistic significance the preservation of which would be consistent with the purposes of this section.

(d) In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within six hundred and sixty feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary. The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act. Whenever a bona fide State, county, or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority. Nothing in this subsection shall apply to signs, displays, and devices referred to in clauses (2) and (3) of subsection (c) of this section.

(e) Any sign, display, or device lawfully in existence along the Interstate System or the Federal-aid primary system on September 1, 1965, which does not conform to this section shall not be required to be removed until July 1, 1970. Any other sign, display, or device lawfully erected which does not conform to this section shall not be required to be removed until the end of the fifth year after it becomes nonconforming.

(f) The Secretary shall, in consultation with the States, provide within the rights-of-way for areas at appropriate distances from interchanges on the Interstate System, on which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. Such signs shall conform to national standards to be promulgated by the Secretary.

(g) Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law. The Federal share of such compensation shall be 75 per centum. Such compensation shall be paid for the following:

(A) The taking from the owner of such sign, display, or device of all right, title, leasehold, and interest in such sign, display, or device; and

(B) The taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain such signs, displays, and devices thereon.

(h) All public lands or reservations of the United States which are adjacent to any portion of the Interstate System and the primary system shall be controlled in accordance with the provisions of this section and the national standards promulgated by the Secretary.

(i) In order to provide information in the specific interest of the traveling public, the State highway departments are authorized to maintain maps and to permit information directories and advertising pamphlets to be made available at safety rest areas. Subject to the approval of the Secretary, a State may also establish information centers at safety rest areas and other travel information systems within the rights-of-way for the purpose of informing the public of places of interest within the State and providing such other information as a State may consider desirable. The Federal share of the cost of establishing such an information center or travel information system shall be that which is provided in section 120 for a highway project on that Federal-aid system to be served by such center or system.

(j) Any State highway department which has, under this section as in effect on June 30, 1965, entered into an agreement with the Secretary to control the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System shall be entitled to receive the bonus payments as set forth in the agreement, but no such State highway department shall be entitled to such payments unless the State maintains the control required under such agreement. Such payments shall be paid only from appropriations made to carry out this section. The provisions of this subsection shall not be construed to exempt any State from controlling outdoor advertising as otherwise provided in this section.

(k) Nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to signs, displays, and devices on the Federal-aid highway systems than those established under this section.

(*l*) Not less than sixty days before making a final determination to withhold funds from a State under subsection (b) of this section, or to do so under subsection (b) of section 136, or with respect to failing to agree as to the size, lighting, and spacing of signs, displays, and devices or as to unzoned commercial or industrial areas in which signs, displays, and devices may be erected and maintained under subsection (d) of this section, or with respect to failure to approve under subsection (g) of section 136, the Secretary shall give written notice to the State of his proposed determination and a statement of the reasons therefor, and during such period shall give the State an opportunity for a hearing on such determination. Following such hearing the Secretary shall issue a written order setting forth his final determination and shall furnish a copy of such order to the State. Within forty-five days of receipt of such order, the State may appeal such order to any United States district court for such State, and upon the filing of such appeal such order shall be stayed until final judgment has been entered on such appeal. Summons may be served at any place in the United States. The court shall have jurisdiction to affirm the determination of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the United States court of appeals for the circuit in which the State is located and to the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254. If any part of an apportionment to a State is withheld by the Secretary under subsection (b) of this section or subsection (b) of section 136, the amount so withheld shall not be reapportioned to the other States as long as a suit brought by such State under this subsection is pending. Such amount shall remain available for apportionment in accordance with the final judgment and this subsection. Funds withheld from apportionment and subsequently apportioned or reapportioned under this section shall be available for expenditure for three full fiscal years after the date of such apportionment or reapportionment as the case may be.

(m) There is authorized to be appropriated to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for the fiscal year ending June 30, 1966, not to exceed $20,000,000 for the fiscal year ending June 30, 1967, not to exceed $20,000,000 for the fiscal year ending June 30, 1970, not to exceed $27,000,000 for the fiscal year ending June 30, 1971, not to exceed $20,500,000 for the fiscal year ending June 30, 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967.

(n) No sign, display, or device shall be required to be removed under this section if the Federal share of the just compensation to be paid upon removal of such sign, display, or device is not available to make such payment.

(*o*) The Secretary may approve the request of a State to permit retention in specific areas defined by such State of directional signs, displays, and devices lawfully erected under State law in force at the time of their erection which do not conform to the requirements of subsection (c), where such signs, displays, and devices are in existence on the date of enactment of this subsection and where the State demonstrates that such signs, displays, and devices (1) provide directional information about goods and services in the interest of the traveling public, and (2) are such that removal would work a substantial economic hardship in such defined area.

(p) In the case of any sign, display, or device required to be removed under this section prior to the date of enactment of the Federal-Aid Highway Act of 1974, which sign, display, or device was after its removal lawfully relocated and which as a result of the amendments made to this section by such Act is required to be removed, the United States shall pay 100 per centum of the just compensation for such removal (including all relocation costs).

(q)(1) During the implementation of State laws enacted to comply with this section, the Secretary shall encourage and assist the States to develop sign controls and programs which will assure that necessary directional information about facilities providing goods and services in the interest of the traveling public will continue to be available to motorists. To this end the Secretary shall restudy and revise as appropriate existing standards for directional signs authorized under subsections 131(c)(1) and 131(f) to develop signs which are functional and esthetically compatible with their surroundings. He shall employ the resources of other Federal departments and agencies, including the National Endowment for the Arts, and employ maximum participation of private industry in the development of standards and systems of signs developed for those purposes.

(2) Among other things the Secretary shall encourage States to adopt programs to assure that removal of signs providing necessary directional information, which also were providing directional information on June 1, 1972, about facilities in the interest of the traveling public,

be deferred until all other nonconforming signs are removed.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 904; Pub. L. 86-342, title I, § 106, Sept. 21, 1959, 73 Stat. 612; Pub. L. 87-61, title I, § 106, June 29, 1961, 75 Stat. 123; Pub. L. 88-157, § 5, Oct. 24, 1963, 77 Stat. 277; Pub. L. 89-285, title I, § 101, Oct. 22, 1965, 79 Stat. 1028; Pub. L. 89-574, § 8(a), Sept. 13, 1966, 80 Stat. 768; Pub. L. 90-495, § 6(a)-(d), Aug. 23, 1968, 82 Stat. 817; Pub. L. 91-605, title I, § 122(a), Dec. 31, 1970, 84 Stat. 1726; Pub. L. 93-643, § 109, Jan. 4, 1975, 88 Stat. 2284; Pub. L. 94-280, title I, § 122, May 5, 1976, 90 Stat. 438.)

REFERENCES IN TEXT

"This Act", referred to in subsec. (d), probably means Pub. L. 89-285, Oct. 22, 1965, 79 Stat. 1028, known as the Highway Beautification Act of 1965, which enacted section 136 of this title and provisions set out as notes under sections 131 and 135 of this title and amended sections 131 and 319 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 136 of this title and Tables volume.

"Date of enactment of this subsection", referred to in subsec. (o), means May 5, 1976, the date of approval of Pub. L. 94-280.

"Date of enactment of the Federal-Aid Highway Act of 1974", referred to in subsec. (p), means Jan. 3, 1975, the date of approval of Pub. L. 93-643.

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-280, § 122(a), authorized the Secretary, in consultation with the States, to provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained.

Subsec. (l). Pub. L. 94-280, § 122(c), authorized a State to establish travel information systems within the rights-of-way and prescribed as the Federal share of the cost of establishing an information center or travel information system the Federal share which is provided in section 120 of this title for a highway project on that Federal-aid system to be served by such center or system.

Subsecs. (o) to (q). Pub. L. 94-280, § 122(b) added subsecs. (o) to (q).

1975—Subsec. (b). Pub. L. 93-643, § 109(a), required reduction of Federal-aid highway funds apportioned on or after Jan. 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than 660 feet off the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way.

Subsec. (c). Pub. L. 93-643, § 109(b), substituted "Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way," for "Effective control means that after January 1, 1968, such signs, displays, and devices", deleted in cl. (1) "other" preceding "official signs", and added cl. (4).

Subsec. (g). Pub. L. 93-643, § 109(c), substituted first sentence reading "Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law." for prior first sentence for payment of just compensation for removal of outdoor advertising signs, displays, and devices (1) lawfully in existence on Oct. 22, 1965, (2) lawfully on any highway made a part of the interstate or primary system on or after Oct. 22, 1965, and before Jan. 1, 1968, and (3) lawfully erected on or after Jan. 1, 1968.

1970—Subsec. (m). Pub. L. 91-605 authorized to be appropriated not to exceed $27,000,000, $20,500,000 and $50,000,000, for the fiscal years ending June 30, 1971, 1972, and 1973, respectively.

1968—Subsec. (d). Pub. L. 90-495, § 6(a), provided that whenever a bona fide State, county, or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority.

Subsec. (j). Pub. L. 90-495, § 6(b), struck out provision for the imposition of controls on outdoor advertising by the Federal government that are stricter than those imposed by the State highway department.

Subsec. (m). Pub. L. 90-495, § 6(c), added provision authorizing an appropriation of not to exceed $2,000,000 for the fiscal year ending June 30, 1970.

Subsec. (n). Pub. L. 90-495, § 6(d), added subsec. (n).

1966—Subsec. (m). Pub. L. 89-574 substituted provisions making applicable to the funds authorized to be appropriated to carry out this section after June 30, 1967 the provisions of chapter 1 of this title relating to the obligation, period of availability and expenditure of Federal-aid primary highway funds for provisions prohibiting the use of any part of the Highway Trust Fund in carrying out this section.

1965—Subsec. (a). Pub. L. 89-285 deleted specific reference to the area which lies within six-hundred and sixty feet of the edge of the right-of-way and which is visible from the right-of-way and instead made only general reference to the areas adjacent to the Interstate System and deleted reference to types of permissible signs.

Subsec. (b). Pub. L. 89-285 substituted provisions reducing by 10 per centum the apportioned share, on or after January 1, 1968, of any state not making provision for effective control of erection and maintenance of outdoor advertising signs, displays and devices within six-hundred and sixty feet of the nearest edge of the right of way and visible from the traveled portion, reapportioning withheld funds to other states, and allowing for suspension of such provisions in the discretion of the Secretary, for provisions which authorized the Secretary to enter into agreements with the states to carry out national policy on control of areas adjacent to the Interstate System.

Subsec. (c). Pub. L. 89-285 substituted provisions setting out permissible types of signs as directional and other official signs and notices, signs advertising sale or lease of property on which the sign is located, and signs, displays, and devices advertising activities conducted on the property on which the sign is located, for provisions allowing for an increase in the federal share payable under the Federal-Aid Highway Act of 1956, as amended, in the case of states entering into an agreement with the Secretary prior to July 1, 1965.

Subsec. (d). Pub. L. 89-285 substituted provisions allowing for agreements between the Secretary and the several states covering commercial or industrial property, for provisions covering control of the adjacent area when the Interstate System is located on or near public lands or reservations of the United States.

Subsec. (e). Pub. L. 89-285 substituted provisions setting out the timetable for removal of signs, displays, and devices lawfully along Interstate System or Federal-aid primary system highways, for provisions allowing the inclusion of the cost of purchase or condemnation of the right to advertise or control advertising in the area adjacent to Interstate System right-of-way as part of the cost of construction.

Subsecs. (f) to (m). Pub. L. 89-285 added subsecs. (f) to (m).

1963—Subsec. (c). Pub. L. 88-157 substituted "July 1, 1965" for "July 1, 1963".

1961—Subsec. (c). Pub. L. 87-61 substituted "July 1, 1963" for "July 1, 1961".

1959—Subsec. (b). Pub. L. 86-342 substituted "Agreements entered into between the Secretary of Commerce and State highway departments under this section shall not apply to those segments of the Interstate System which traverse commercial or industrial zones within the presently existing boundaries of incorporated municipalities wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or which traverse other areas where the land use, as of the date of approval of this Act, is clearly established by State law as industrial or commercial" for "Upon application of the State, any such agreement may, within the discretion of the Secretary of Commerce consistent with the national policy, provide for excluding from application of the national standards segments of the Interstate System which traverse incorporated municipalities wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or which traverse other areas where the land use is clearly established by State law as industrial or commercial."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

ACQUISITION OF DWELLINGS

Section 305 of Pub. L. 89-285 provided that: "Nothing in this Act or the amendments made by this Act [amending this section and section 319 of this title and enacting section 136 of this title and provisions set out as notes under this section and sections 135 and 136 of this title] shall be construed to authorize the use of eminent domain to acquire any dwelling (including related buildings)."

AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR ADMINISTRATIVE EXPENSES

Section 402 of Pub. L. 89-285 provided that: "In addition to any other amounts authorized by this Act and the amendments made by this Act [amending this section and section 319 of this title and enacting section 136 of this title and provisions set out as notes under this section and sections 135 and 136 of this title], there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Secretary of Commerce not to exceed $5,000,000 for administrative expenses in carrying out this Act (including amendments made by this Act)."

HIGHWAY BEAUTIFICATION COMMISSION

Section 123 of Pub. L. 91-605, as amended by Pub. L. 93-6, Feb. 16, 1973, 87 Stat. 6, provided that:

"(a) There is hereby established a commission to be known as the Commission on Highway Beautification, hereinafter referred to as the 'Commission'.

"(b) The Commission shall be comprised of eleven members as follows:

"(1) two majority and two minority members of the Senate Committee on Public Works to be appointed by the President of the Senate;

"(2) two majority and two minority members of the House Committee on Public Works to be appointed by the Speaker of the House of Representatives;

"(3) three persons to be appointed by the President of the United States from among persons who are not officers or employees of the United States.

"(c) The Chairman shall be elected from among the members of the Commission by a majority vote of such members. Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

"(d) The organization meeting of the Commission shall be held at such time and place as may be specified in a call issued jointly by the senior member appointed by the President of the Senate and the senior member appointed by the Speaker of the House of Representatives.

"(e) Six members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

"(f) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

"(g) Members of the Commission who are not Members of Congress or officers or employees in the executive branch shall each receive $100 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

"(h) The Commission shall (1) study existing statutes and regulations governing the control of outdoor advertising and junkyards in areas adjacent to the Federal-aid highway system; (2) review the policies and practices of the Federal and State agencies charged with administrative jurisdiction over such highways insofar as such policies and practices relate to governing the control of outdoor advertising and junkyards; (3) compile data necessary to understand and determine the requirements for such control which may now exist or are likely to exist within the foreseeable future; (4) study problems relating to the control of on-premise outdoor advertising signs, promotional signs; directional signs, and signs providing information that is essential to the motoring public; (5) study methods of financing and possible sources of Federal funds, including use of the Highway Trust Fund, to carry out a highway beautification program; and (6) recommend such modifications or additions to existing laws, regulations, policies, practices, and demonstration programs as will, in the judgment of the Commission, achieve a workable and effective highway beautification program and best serve the public interest.

"(i) The Commission shall not later than December 31, 1973, submit to the President and the Congress its final report. It shall cease to exist six months after submission of said report. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

"(j) The Chairman of the Commission shall request the head of each Federal department or independent agency which has an interest in or responsibility with respect to the control of outdoor advertising and of junkyards to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Commission and its staff in matters pertaining to this section.

"(k) In carrying out its duties the Commission shall seek the advice of various groups interested in the problems relating to the control of outdoor advertising and junkyards including, but not limited to, State and local governments, public and private organizations working in the fields of environmental protection and conservation, communications media, commercial advertising interests, industry, education, and labor.

"(l) The Commission or, on authorization of the Commission, any committee of two or more members may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and places as the Commission or such autho-

rized committee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued only on the authority of the Commission and shall be served by anyone designated by the Chairman of the Commission.

"(m) The Commission is authorized to secure from any department, agency, or individual instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this section and each such department, agency, and instrumentality is authorized and directed to furnish such information to the Commission upon request made by the Chairman.

"(n) There are hereby authorized to be appropriated such sums, but not more than $450,000, as may be necessary to carry out the provisions of this section and such moneys as may be appropriated shall be available to the Commission until expended.

"(o) The Commission is authorized to appoint and fix the compensation of a staff director, and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege. In no event shall the staff director or any other employee receive as compensation an amount in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed $100 per diem for individuals.

"(p) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this section to carry out such of its duties as the Commission determines can best be carried out in that manner."

COMPREHENSIVE STUDY ON HIGHWAY BEAUTIFICATION PROGRAMS

Section 302 of Pub. L. 89-285 provided that in order to provide the basis for evaluating the continuing programs authorized by Pub. L. 89-285, and to furnish the Congress with the information necessary for authorization of appropriations for fiscal years beginning after June 30, 1967, the Secretary, in cooperation with the State highway departments, shall make a detailed estimate of the cost of carrying out the provisions of Pub. L. 89-885, and a comprehensive study of the economic impact of such programs on affected individuals and commercial and industrial enterprises, the effectiveness of such programs and the public and private benefits realized thereby, and alternate or improved methods of accomplishing the objectives of Pub. L. 89-285. The Secretary was required to submit such detailed estimate and a report concerning such comprehensive study to the Congress not later than Jan. 10, 1967.

STANDARDS, CRITERIA, RULES AND REGULATIONS

Section 303 of Pub. L. 89-285 mandated the holding of public hearings by the Secretary of Commerce prior to the promulgation of standards, criteria and rules and regulations necessary to carry out this section and section 136 of this title, such standards, criteria, etc., to be reported to Congress not later than Jan. 10, 1967.

TAKING OF PRIVATE PROPERTY WITHOUT JUST COMPENSATION

Section 401 of Pub. L. 89-285 provided that: "Nothing in this Act or the amendments made by this Act [amending this section and section 319 of this title and enacting section 136 of this title and provisions set out as notes under sections 131, 135, and 136 of this title] shall be construed to authorize private property to be taken or the reasonable and existing use restricted by such taking without just compensation as provided in this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 148 of this title.

§ 132. Payments on Federal-aid projects undertaken by a Federal agency

Where a proposed Federal-aid project is to be undertaken by a Federal agency pursuant to an agreement between a State and such Federal agency and the State makes a deposit with or payment to such Federal agency as may be required in fulfillment of the State's obligation under such agreement for the work undertaken or to be undertaken by such Federal agency, the Secretary, upon execution of a project agreement with such State for the proposed Federal-aid project, may reimburse the State out of the appropriate appropriations the estimated Federal share under the provisions of this title of the State's obligation so deposited or paid by such State. Upon completion of such project and its acceptance by the Secretary, an adjustment shall be made in such Federal share payable on account of such project based on the final cost thereof. Any sums reimbursed to the State under this section which may be in excess of the Federal pro rata share under the provisions of this title of the State's share of the cost as set forth in the approved final voucher submitted by the State shall be recovered and credited to the same class of funds from which the Federal payment under this section was made.

(Added Pub. L. 86-657, § 4(a), July 14, 1960, 74 Stat. 522.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

[§ 133. Repealed. Pub. L. 90-495, § 37, Aug. 23, 1968, 82 Stat. 836]

Section, Pub. L. 87-866, § 5(a), Oct. 23, 1962, 76 Stat. 1146, provided for relocation assistance for persons displaced by Federal-aid highway construction. See section 501 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal of section effective July 1, 1970, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

§ 134. Transportation planning in certain urban areas

(a) It is declared to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States, as authorized in this title, in the development of long-range highway plans and programs

which are properly coordinated with plans for improvements in other affected forms of transportation and which are formulated with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. After July 1, 1965, the Secretary shall not approve under section 105 of this title any program for projects in any urban area of more than fifty thousand population unless he finds that such projects are based on a continuing comprehensive transportation planning process carried on cooperatively by States and local communitites in conformance with the objectives stated in this section. No highway project may be constructed in any urban area of fifty thousand population or more unless the responsible public officials of such urban area in which the project is located have been consulted and their views considered with respect to the corridor, the location and design of the project.

(b) The Secretary may define those contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation systems to efficiently accommodate present transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary may by regulation designate, for administrative and planning purposes, as a critical transportation region or a critical transportation corridor each of those areas which he determines most urgently require the accelerated development of transportation systems embracing various modes of transport, in accordance with purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary may, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, including highway planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and may provide assistance including financial assistance to such bodies. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, not to exceed $500,000 to carry out this subsection.

(Added Pub. L. 87-866, § 9(a), Oct. 23, 1962, 76 Stat. 1148, and amended Pub. L. 91-605, title I, § 143, Dec. 31, 1970, 84 Stat. 1737.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-605, § 143(a), designated existing provisions as subsec. (a) and as so designated added provision prohibiting a highway construction project in any urban area of 50,000 or more population unless responsible public officials of such area have been consulted and their views considered with respect to the corridor, the location, and the design of the project.

Subsec. (b). Pub. L. 91-605, § 143(b), added subsec. (b).

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

URBAN SYSTEM STUDY

Pub. L. 94-280, title I, § 149, May 5, 1976, 90 Stat. 447 authorized the Secretary of Transportation to conduct a study of the factors involved in planning, selection, etc., of Federal-aid urban system routes including an analysis of organizations carrying out the planning process, the status of jurisdiction over roads, programing responsibilities under local and State laws, and authority of local units, such study to be submitted to Congress within six months of May 5, 1976.

FRINGE PARKING DEMONSTRATION PROJECTS

Pub. L. 90-495, § 11, Aug. 23, 1968, 82 Stat. 820, which permitted the Secretary to approve construction of publicly owned parking facilities under this title until June 30, 1971 as a demonstration project, authorized the Federal share of any project under this section to be 50%, prevented approval of projects by the Secretary unless the State or political subdivision thereof where the project is located can construct, maintain, and operate the facility, unless the Secretary has entered into an agreement with the State or political subdivision governing the financing, maintenance, and operation of the facility, and unless the Secretary has approved design standards for construction of the facility, defined "parking facilities", permitted a State or political subdivision to contract for the operation of such facility, prohibited approval of the project by the Secretary unless it is carried on in accordance with section 134 of this title (this section), and required annual reports to Congress on the demonstration projects approved under this section, was repealed by Pub. L. 91-605, title I, § 134(c), Dec. 31, 1970, 84 Stat. 1734. See section 137 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 103, 104, 105, 142 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 1-1401a of the District of Columbia Code.

§ 135. Traffic operations improvement programs

(a) The Congress hereby finds and declares it to be in the national interest that each State shall have a continuing program designed to reduce traffic congestion and facilitate the flow of traffic.

(b) The Secretary may approve under this section any project for improvements on any public road which project will directly facilitate and control traffic flow on any of the Federal-aid systems.

(Added Pub. L. 90-495, § 10(a), Aug. 23, 1968, 82 Stat. 820, and amended Pub. L. 91-605, title I, §§ 106(g), 125, Dec. 31, 1970, 84 Stat. 1718, 1729; Pub. L. 93-87, title I, § 119, Aug. 13, 1973, 87 Stat. 259; Pub. L. 94-280, title I, § 123(a), May 5, 1976, 90 Stat. 439.)

PRIOR PROVISIONS

A prior section 135, Pub. L. 89-139, § 4(a), Aug. 28, 1965, 79 Stat. 578, calling for a highway safety program in each state approved by the Secretary, was repealed by Pub. L. 89-564, title I, § 102(a), Sept. 9, 1966, 80 Stat. 734.

AMENDMENTS

1976—Catchline. Pub. L. 94-280 deleted introductory words "Urban area" from the heading.

Subsec. (a). Pub. L. 94-280 deleted "within the designated boundaries of urban areas of the State" and "in the urban areas" following "continuing program" and "flow of traffic".

Subsec. (b). Pub. L. 94-280 substituted "any project for improvements on any public road which project will directly facilitate and control traffic flow on any of the Federal-aid systems" for "any project on an extension of the Federal-aid primary or secondary system in urban areas and on the Federal-aid urban system for improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and loading and unloading ramps. If such project is located in an urban area of more than fifty thousand population, such project shall be based on a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title".

Subsec. (c). Pub. L. 94-280 deleted subsec. (c) which provided for an annual report by the Secretary on projects approved under this section with recommendations for further improvement of traffic operations in accordance with this section.

1973—Subsec. (c). Pub. L. 93-87 repealed subsec. (c) provisions for apportionment of sums authorized to carry out this section in accordance with section 104(b)(3) of this title and redesignated former subsec. (d) as (c).

Subsec. (d). Pub. L. 93-87 redesignated former subsec. (d) as (c).

1970—Subsec. (b). Pub. L. 91-605 inserted reference to the Federal-aid urban system and required that projects under this section be based on a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title only in urban areas of more than fifty thousand population.

EFFECTIVE DATE

Section effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

TRAFFIC CONTROL SIGNALIZATION DEMONSTRATION PROJECTS; REPORTS TO SECRETARY OF TRANSPORTATION; REPORT TO CONGRESS

Section 146 of Pub. L. 94-280 provided that:

"(a) The Secretary of Transportation is authorized to carry out traffic control signalization demonstration projects designed to demonstrate through the use of technology not now in general use the increased capacity of existing highways, the conservation of fuel, the decrease in traffic congestion, the improvement in air and noise quality, and the furtherance of highway safety, giving priority to those projects providing coordinated signalization of two or more intersections. Such projects can be carried out on any highway whether on or off a Federal-aid system.

"(b) There is authorized to be appropriated to carry out this section of the Highway Trust Fund, not to exceed $40,000,000 for the fiscal year ending September 30, 1977, and $40,000,000 for the fiscal year ending September 30, 1978.

"(c) Each participating State shall report to the Secretary of Transportation not later than September 30, 1977, and not later than September 30 of each year thereafter, on the progress being made in implementing this section and the effectiveness of the improvements made under it. Each report shall include an analysis and evaluation of the benefits resulting from such projects comparing an adequate time period before and after treatment in order to properly assess the benefits occurring from such traffic control signalization. The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1978, on the progress being made in implementing this section and an evaluation of the benefits resulting therefrom."

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 89-285, title III, § 304, Oct. 22, 1965, 79 Stat. 1033, provided that: "There is authorized to be appropriated the sum of $500,000 to enable the Secretary of Commerce to carry out his functions under section 135 of title 23 of the United States Code relating to highway safety programs."

§ 136. Control of junkyards

(a) The Congress hereby finds and declares that the establishment and use and maintenance of junkyards in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the establishment and maintenance along the Interstate System and the primary system of outdoor junkyards which are within one thousand feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

(c) Effective control means that by January 1, 1968, such junkyards shall be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the system, or shall be removed from sight.

(d) The term "junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismanteled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(e) The term "automobile graveyard" shall mean any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(f) The term "junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

(g) Notwithstanding any provision of this section, junkyards, auto graveyards, and scrap metal processing facilities may be operated within areas adjacent to the Interstate System and the primary system which are within one thousand feet of the nearest edge of the right-of-way and which are zoned industrial under authority of State law, or which are not zoned under authority of State law, but are used for

industrial activities, as determined by the several States subject to approval by the Secretary.

(h) Notwithstanding any provision of this section, any junkyard in existence on the date of enactment of this section which does not conform to the requirements of this section and which the Secretary finds as a practical matter cannot be screened, shall not be required to be removed until July 1, 1970.

(i) The Federal share of landscaping and screening costs under this section shall be 75 per centum.

(j) Just compensation shall be paid the owner for the relocation, removal, or disposal of junkyards lawfully established under State law. The Federal share of such compensation shall be 75 per centum.

(k) All public lands or reservations of the United States which are adjacent to any portion of the interstate and primary systems shall be effectively controlled in accordance with the provisions of this section.

(*l*) Nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to outdoor junkyards on the Federal-aid highway systems than those established under this section.

(m) There is authorized to be appropriated to carry out this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for the fiscal year ending June 30, 1966, not to exceed $20,000,000 for the fiscal year ending June 30, 1967, not to exceed $3,000,000 for the fiscal year ending June 30, 1970, not to exceed $3,000,000 for the fiscal year ending June 30, 1971, not to exceed $3,000,000 for the fiscal year ending June 30, 1972, and not to exceed $5,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967.

(Added Pub. L. 89-285, title II, § 201, Oct. 22, 1965, 79 Stat. 1030, and amended Pub. L. 89-574, § 8(a), Sept. 13, 1966, 80 Stat. 768; Pub. L. 90-495, § 6(c), Aug. 23, 1968, 82 Stat. 818; Pub. L. 91-605, title I, § 122(b), Dec. 31, 1970, 84 Stat. 1726; Pub. L. 93-643, § 110, Jan. 4, 1975, 88 Stat. 2285.)

AMENDMENTS

1975—Subsec. (j). Pub. L. 93-643 substituted first sentence reading "Just compensation shall be paid the owner for the relocation, removal, or disposal of junkyards lawfully established under State law." for prior first sentence for payment of just compensation for relocation, removal, or disposal of junkyards (1) lawfully in existence on Oct. 22, 1965, (2) lawfully along any highway made a part of the interstate or primary system on or after Oct. 22, 1965, and before Jan. 1, 1968, and (3) lawfully established on or after Jan. 1, 1968.

1970—Subsec. (m). Pub. L. 91-605 authorized to be appropriated not to exceed $3,000,000, $3,000,000, and $5,000,000, for the fiscal years ending June 30, 1971, 1972, and 1973, respectively.

1968—Subsec. (m). Pub. L. 90-495 added provision authorizing an appropriation of not to exceed $3,000,000 for the fiscal year ending June 30, 1970.

1966—Subsec. (m). Pub. L. 89-574 substituted provisions making applicable to the funds authorized to be appropriated to carry out this section after June 30, 1967, the provisions of chapter 1 of this title relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds for provisions prohibiting the use of any part of the Highway Trust Fund in carrying out this section.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective August 23, 1968, see section 37 of Pub. L. 90-495, set out as a note under section 502 of this title.

ACQUISITION OF DWELLINGS

Prohibition against the use of eminent domain to acquire any dwelling (including related buildings) under the terms of Pub. L. 89-285, see section 305 of Pub. L. 89-285, set out as a note under section 131 of this title.

TAKING OF PRIVATE PROPERTY WITHOUT JUST COMPENSATION

Prohibition against the taking of private property or the restriction of reasonable and existing use by such taking without just compensation under the terms of Pub. L. 89-285, see section 401 of Pub. L. 89-285, set out as a note under section 131 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 131 of this title.

§ 137. Fringe and corridor parking facilities

(a) The Secretary may approve as a project on the Federal-aid urban system the acquisition of land adjacent to the right-of-way outside a central business district, as defined by the Secretary, and the construction of publicly owned parking facilities thereon or within such right-of-way, including the use of the air space above and below the established grade line of the highway pavement, to serve an urban area of fifty thousand population or more. Such parking facility shall be located and designed in conjunction with existing or planned public transportation facilities. In the event fees are charged for the use of any such facility, the rate thereof shall not be in excess of that required for maintenance and operation (including compensation to any person for operating such facility).

(b) The Secretary shall not approve any project under this section until—

(1) he has determined that the State, or the political subdivision thereof, where such project is to be located, or any agency or instrumentality of such State or political subdivision, has the authority and capability of constructing, maintaining, and operating the facility;

(2) he has entered into an agreement governing the financing, maintenance, and operation of the parking facility with such State, political subdivision, agency, or instrumentality, including necessary requirements to insure that adequate public transportation services will be available to persons using such facility; and

(3) he has approved design standards for constructing such facility developed in cooperation with the State highway department.

(c) The term "parking facilities" for purposes of this section shall include access roads, buildings, structures, equipment, improvements, and interests in lands.

(d) Nothing in this section, or in any rule or regulation issued under this section, or in any agreement required by this section, shall pro-

hibit (1) any State, political subdivision, or agency or instrumentality thereof, from contracting with any person to operate any parking facility constructed under this section, or (2) any such person from so operating such facility.

(e) The Secretary shall not approve any project under this section unless he determines that it is based on a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title.

(Added Pub. L. 89-574, § 8(c)(1), Sept. 13, 1966, 80 Stat. 768, and amended Pub. L. 91-605, title I, § 134(a), Dec. 31, 1970, 84 Stat. 1733.)

AMENDMENTS

1970—Pub. L. 91-605 substituted "Fringe and corridor parking facilities" for "Limitation on authorization of appropriations for certain purposes" in the section catchline.

Subsec. (a). Pub. L. 91-605 substituted provisions premitting the Secretary to approve construction of publicly owned parking facilities under the Federal-aid urban system for provisions limiting authorization of appropriations under section 131, 136, and 319(b) of this title, or any highway safety bill enacted after May 1, 1966 by preventing these sections and provisions from being construed as authority for any appropriations not specifically authorized in these sections and provisions.

Subsec. (b). Pub. L. 91-605 substituted provisons preventing project approval by the Secretary unless the State or political subdivision thereof where the project is located can construct, maintain, and operate the facility, unless the Secretary has entered into an agreement with the State or political subdivision governing the financing, maintenance, and operation of the facility, and unless the Secretary has approved design standards for construction of the facility for provisions limiting authorization of appropriations under sections 131, 136, and 319(b) of this title, or any highway safety bill enacted after May 1, 1966 by preventing appropriations to carry out these sections and provisions unless they are specific as to the amount authorized and as to the fiscal year.

Subsec. (c). Pub. L. 91-605 substituted provisions defining the term "parking facilities" for provisions limiting authorization of appropriations under sections 131, 136, and 319(b) of this title, or any highway safety bill enacted after May 1, 1966 by preventing the highway trust fund from being a source of appropriation for these sections and provisions in an amount exceeding the tax imposed by section 4061(a)(2) of Title 26, if such tax was imposed at a rate of 1% plus additional amounts appropriated from the general fund to the highway trust fund for such purposes except that the total of all appropriations made from such fund to carry out these sections and provisions shall never exceed the total of all appropriations made to such fund based on the imposition of such tax plus additional amounts appropriated from the general fund to the highway trust fund for such purposes.

Subsecs. (d), (e). Pub. L. 91-605 added subsecs. (d), (e).

§ 138. Preservation of parklands

It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of the Federal-Aid Highway Act of 1968, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use. In carrying out the national policy declared in this section the Secretary, in cooperation with the Secretary of the Interior and appropriate State and local officials, is authorized to conduct studies as to the most feasible Federal-aid routes for the movement of motor vehicular traffic through or around national parks so as to best serve the needs of the traveling public while preserving the natural beauty of these areas.

(Added Pub. L. 89-574, § 15(a), Sept. 13, 1966, 80 Stat. 771, and amended Pub. L. 90-495, § 18(a), Aug. 23, 1968, 82 Stat. 823; Pub. L. 94-280, title I, § 124, May 5, 1976, 90 Stat. 440.)

REFERENCES IN TEXT

The effective date of the Federal-Aid Highway Act of 1968, referred to in text, is the effective date of Pub. L. 90-495, which took effect on Aug. 23, 1968.

AMENDMENTS

1976—Pub. L. 94-280 authorized the Secretary, in cooperation with the Secretary of the Interior and appropriate State and local officials, to conduct studies as to the most feasible Federal-aid routes for the movement of motor vehicular traffic through or around national parks so as to best serve the needs of the traveling public while preserving the natural beauty of these areas.

1968—Pub. L. 90-495 amended section generally so as to render it identical to section 1653(f) of Title 49, Transportation, governing all programs and projects subject to the jurisdiction of the Secretary of Transportation.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

§ 139. Additions to Interstate System

(a) Whenever the Secretary determines that a highway on the Federal-aid primary system meets all of the standards of a highway on the Interstate System and that such highway is a logical addition or connection to the Interstate System, he may, upon the affirmative recommendation of the State or States involved, designate such highway as a part of the Interstate System. The mileage of any highway designated as part of the Interstate System under this section shall not be charged against the limitation established by the first sentence of section 103(e) of this title. The designation of a highway as part of the Interstate System under this section shall create no Federal financial responsibility with respect to such highway.

(b) Whenever the Secretary determines that a highway on the Federal-aid primary system would be a logical addition or connection to the Interstate System and would qualify for designation as a route on that system in the same manner as set forth in paragraph 1 of subsection (e) of section 103 of this title, he may upon the affirmative recommendation of the State or States involved designate such highway as a future part of the Interstate System. Such designation shall be made only upon the written agreement of the State or States involved that such highway will be constructed to meet all the standards of a highway on the Interstate System within twelve years of the date of the agreement between the Secretary and the State or States involved. The mileage of any highway designated as a future part of the Interstate System under this subsection shall not be charged against the limitations established by the first sentence of section 103(e) of this title. The designation of a highway as a future part of the Interstate System under this subsection shall create no Federal financial responsibility with respect to such highway except that Federal-aid highway funds otherwise available to the State or States involved for the construction of Federal-aid primary system highways may be used for the reconstruction of a highway designated as a route on the Interstate System under this subsection. In the event that the State or States involved have not substantially completed the construction of any highway designated under this subsection within the time provided for in the agreement between the Secretary and State or States involved, the Secretary shall remove the designation of such highway as a future part of the Interstate System. Removal of such designation as result of failure to comply with the agreement provided for in this subsection shall in no way prohibit the Secretary from designating such route as part of the Interstate System pursuant to subsection (a) of this section or under any other provision of law providing for addition to the Interstate System. No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision thereof, shall refer to any highway under this section, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as such highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a part of the Interstate System.

(Added Pub. L. 90-495, § 16(a), Aug. 23, 1968, 82 Stat. 823, and amended Pub. L. 91-605, title I, §§ 106(b)(1), 140, Dec. 31, 1970, 84 Stat. 1716, 1736; Pub. L. 94-280, title I, § 125, May 5, 1976, 90 Stat. 440.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-280 substituted "subsection (e) of section 103 of this title" and "section 103(e) of this title" for "subsection (d) of section 103 of this title" and "section 103(d) of this title".

1970—Subsec. (a). Pub. L. 91-605, §§ 106(b)(1), 140, designated existing provisions as subsec. (a) and as so designated substituted "section 103(e)" for "section 103(d)".

Subsec. (b). Pub. L. 91-605, § 140, added subsec. (b).

EFFECTIVE DATE

Section effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

§ 140. Equal employment opportunity

(a) Prior to approving any programs for projects as provided for in subsection (a) of section 105 of this title, the Secretary shall require assurances from any State desiring to avail itself of the benefits of this chapter that employment in connection with proposed projects will be provided without regard to race, color, creed or national origin. He shall require that each State shall include in the advertised specifications, notification of the specific equal employment opportunity responsibilities of the successful bidder. In approving programs for projects on any of the Federal-aid systems, the Secretary shall, where he considers it necessary to assure equal employment opportunity, require certification by any State desiring to avail itself of the benefits of this chapter that there are in existence and available on a regional, statewide, or local basis, apprenticeship, skill improvement or other upgrading programs, registered with the Department of Labor or the appropriate State agency, if any, which provide equal opportunity for training and employment without regard to race, color, creed or national origin. The Secretary shall periodically obtain from the Secretary of Labor and the respective State highway departments information which will enable him to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary such assistance and information as he shall deem necessary to carry out the equal employment opportunity program required hereunder.

(b) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer highway construction training, including skill improvement programs. Whenever apportionments are made under section 104(b) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and not to exceed $10,000,000 per fiscal year, for the administration of this subsection. Such sums so deducted shall remain available until expended. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be not be applicable to contracts and agreements made under the authority herein granted to the Secretary.

(Added Pub. L. 90-495, § 22(a), Aug. 23, 1968, 82 Stat. 826, and amended Pub. L. 91-605, title I, § 110, Dec. 31, 1970, 84 Stat. 1719; Pub. L. 93-87, title I, § 120, Aug. 13, 1973, 87 Stat. 259; Pub. L. 94-280, title I, § 126, May 5, 1976, 90 Stat. 440.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-280 substituted a second sentence reading "Whenever apportionments are made under section 104(b) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and not to exceed

$10,000,000 per fiscal year, for the administration of this subsection." for prior second sentence reading "Whenever an apportionment is made under subsections 104(b)(1), (b)(2), (b)(3), (b)(5), and (b)(6) of this title of the sums authorized to be appropriated for expenditure upon the Federal-aid primary and secondary systems, and their extensions within urban areas, the Interstate System, and the Federal-aid urban system for the fiscal years 1972, 1973, 1974, 1975, and 1976, the Secretary shall deduct such sums as he may deem necessary not to exceed $5,000,000 per fiscal year for the fiscal years 1972 and 1973, and $10,000,000 per fiscal year for the fiscal years 1974, 1975 and 1976, for administering the provisions of this subsection to be financed from the appropriation for the Federal-aid systems."

1973—Subsec. (b). Pub. L. 93-87 included apportionment of appropriated moneys for administration of subsec. (b) provisions for fiscal years 1974, 1975, and 1976, and substituted provisions which made available for such administration $5,000,000 per fiscal year for fiscal years 1972, and 1973, and $10,000,000 per fiscal year for fiscal years 1974, 1975, and 1976, for prior provision making available $5,000,000 per fiscal year for such administration.

1970—Subsec. (a). Pub. L. 91-605 designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 91-605 added subsec. (b).

EFFECTIVE DATE

Section effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

§ 141. Enforcement of requirements

Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary, the Federal-aid urban system and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title, and all speed limits on public highways in accordance with section 154 of this title. The Secretary shall not approve any project under section 106 of this title in any State which has failed to certify in accordance with this section.

(Added Pub. L. 93-643, § 107(a), Jan. 4, 1975, 88 Stat. 2284.)

PRIOR PROVISIONS

A prior section 141, Pub. L. 90-495, § 35(a), Aug. 23, 1968, 82 Stat. 836, relating to real property acquisition policies, was repealed by Pub. L. 91-646, title III, § 306, Jan. 2, 1971, 84 Stat. 1907, such repeal becoming effective as to all States after July 1, 1972, the date on which sections 4630 and 4655 of Title 42, The Public Health and Welfare, covering similar subject matter, became applicable to all States.

§ 142. Public transportation

(a)(1) To encourage the development, improvement, and use of public mass transportation systems operating motor vehicles (other than on rail) on Federal-aid highways for the transportation of passengers (hereafter in this section referred to as "buses"), so as to increase the traffic capacity of the Federal-aid systems for the movement of persons, the Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential bus lanes, highway traffic control devices, bus passenger loading areas and facilities (including shelters), and fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, and sums apportioned under section 104(b) of this title shall be available to finance the cost of projects under this paragraph. If fees are charged for the use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility (including compensation to any person for operating the facility).

(2) In addition to the projects under paragraph (1), the Secretary may, beginning with the fiscal year ending June 30, 1975, approve as a project on the Federal-aid urban system, for payment from sums apportioned under section 104(b)(6) of this title, the purchase of buses, and, beginning with the fiscal year ending June 30, 1976, approve as a project on the Federal-aid urban system, for payment from sums apportioned under section 104(b)(6) of this title, the construction, reconstruction, and improvement of fixed rail facilities, including the purchase of rolling stock for fixed rail, except that not more than $200,000,000 of all sums apportioned for the fiscal year ending June 30, 1975, under section 104(b)(6) shall be available for the payment of the Federal share of projects for the purchase of buses.

(b) Sums apportioned in accordance with paragraph (5) of subsection (b) of section 104 of this title shall be available to finance the Federal share of projects for exclusive or preferential bus, truck, and emergency vehicle routes or lanes. Routes constructed under this subsection shall not be subject to the third sentence of section 109(b) of this title.

(c) Whenever responsible local officials of an urbanized area notify the State highway department that, in lieu of a highway project the Federal share of which is to be paid from funds apportioned under section 104(b)(6) of this title for the fiscal years ending June 30, 1974, and June 30, 1975, their needs require a nonhighway public mass transit project involving the construction of fixed rail facilities, or the purchase of passenger equipment, including rolling stock for any mode of mass transit, or both, and the State highway department determines that such public mass transit project is in accordance with the planning process under section 134 of this title and is entitled to priority under such planning process, such public mass transit project shall be submitted for approval to the Secretary. Approval of the plans, specifications, and estimates for such project by the Secretary shall be deemed a contractual obligation of the United States for payment out of the general funds of its proportional share of the cost of such project in an amount equal to the Federal share which would have been paid if such project were a highway project under section 120(a) of this title. Funds previously apportioned to such State under section 104(b)(6) of this title shall be reduced by an amount equal to such Federal share.

(d) The establishment of routes and schedules of such public mass transportation systems in urbanized areas shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title.

(e)(1) For all purposes of this title, a project authorized by subsection (a)(1) of this section shall be deemed to be a highway project.

(2) Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from projects authorized by subsection (a)(2) of this section and such projects shall be subject to, and governed in accordance with, all provisions of this title applicable to projects on the Federal-aid urban system, except to the extent determined inconsistent by the Secretary.

(3) The Federal share payable on account of projects authorized by subsection (a) of this section shall be that provided in section 120 of this title.

(f) No project authorized by this section shall be approved unless the Secretary of Transportation has received assurances satisfactory to him from the State that public mass transportation systems will fully utilize the proposed project.

(g) In any case where sufficient land exists within the publicly acquired rights-of-way of any Federal-aid highway to accommodate needed rail or non-highway public mass transit facilities and where this can be accomplished without impairing automotive safety or future highway improvements, the Administrator may authorize a State to make such lands and rights-of-way available without charge to a publicly owned mass transit authority for such purposes wherever he may deem that the public interest will be served thereby.

(h) The provision of assistance under subsection (a)(2) or subsection (c) of this section shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any non-supervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable.

(i) Funds available for expenditure to carry out the purposes of subsection (a)(2) and subsection (c) of this section shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.

(j) The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out subsection (a)(2) and subsection (c) of this section.

(k) The Secretary shall not approve any project under subsection (a)(2) of this section in any fiscal year when there has been enacted an Urban Transportation Trust Fund or similar assured funding for both highway and public transportation.

(Added Pub. L. 91-605, title I, § 111(a), Dec. 31, 1970, 84 Stat. 1719, and amended Pub. L. 93-87, title I, § 121(a), Aug. 13, 1973, 87 Stat. 259; Pub. L. 94-280, title I, § 127, May 5, 1976, 90 Stat. 440.)

REFERENCES IN TEXT

Section 209(f)(1) of the Highway Revenue Act of 1956, referred to in subsec. (e)(2), is set out as a note under section 120 of this title.

The Urban Mass Transportation Act of 1964, as amended, referred to in subsec. (i), is Pub. L. 88-365, July 9, 1964, 78 Stat. 302, which is classified generally to chapter 21 (§ 1601 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 49 and Tables volume.

Section 3(e)(4) of the Urban Mass Transportation Act, as amended, referred to in subsec. (j), is classified to section 1602(e)(4) of Title 49.

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-280, § 127(a), added provision that if fees are charged for the use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility (including compensation to any person for operating the facility).

Subsec. (e)(3). Pub. L. 94-280, § 127(b), substituted "section 120 of this title" for "section 120 of this section".

1973—Subsec. (a). Pub. L. 93-87 designated existing provisions as par. (1), substituted "operating motor vehicles (other than on rail) on Federal-aid highways" for "operating motor vehicles on highways, other than on rails", deleted "within urbanized areas" following "'buses')", inserted "for the movement of persons" following "Federal-aid systems", and substituted provisions respecting availability of sums apportioned under section 104(b) of this title for prior provisions for such sums apportioned in accordance with pars. (3), (5), and (6) of section 104(b) of this title, and added par. (2).

Subsec. (b). Pub. L. 93-87 added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 93-87 added subsec. (c). Former subsec. (c) incorporated in subsecs. (e)(1) and (3) of this section.

Subsec. (d). Pub. L. 93-87 redesignated former subsec. (b) as (d), inserted "in urbanized areas" following "transportation systems", and deleted former subsec. (d) provisions which prohibited any project authorized by this section, other than a project for fringe or transportation parking facilities, from being approved unless the project would avoid the construction of a highway project which increases automobile traffic capacity, would provide a capacity for the movement of persons at least equal to that which would be provided by the avoided highway project, and would not exceed in the amount of the Federal share, the Federal share of the cost of the avoided highway project; or no other feasible or prudent highway project could provide the additional capacity for the movement of persons by motor vehicles on highways (other than on rails) provided by this project.

Subsec. (e). Pub. L. 93-87 incorporated provisions of former subsec. (c) in pars. (1) and (3) and added par. (2). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 93-87 redesignated former subsec. (e) as (f) and substituted "will fully utilize" for "will have adequate capability to fully utilize".

Subsecs. (g) to (k). Pub. L. 93-87 added subsecs. (g) to (k).

RURAL HIGHWAY TRANSPORTATION DEMONSTRATION PROGRAM; APPROPRIATIONS AUTHORIZATION; PUBLIC NOTICE AND HEARING

Section 147 of Pub. L. 93-87, as amended by Pub. L. 93-643, § 103, Jan. 4, 1975, 88 Stat. 2282; Pub. L. 94-280, title I, § 129, May 5, 1976, 90 Stat. 440, provided that:

"(a) To encourage the development, improvement, and use of public mass transportation systems operating vehicles on highways for transportation of passengers within rural areas and small urban areas, and between such areas and urbanized areas, in order to enhance access of rural populations to employment, health care, retail centers, education, and public services, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1975, and $60,000,000 for the fiscal year ending June 30,

1976, of which $50,000,000 shall be out of the Highway Trust Fund, to the Secretary of Transportation to carry out demonstration projects for public mass transportation on highways in rural areas and small urban areas. Such sums shall remain available for a period of two years after the close of the fiscal year for which such sums are authorized. Projects eligible for Federal funds under this section shall include highway traffic control devices, the construction of passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, the purchase of passenger equipment other than rolling stock for fixed rail, and the payment from the General Fund for operating expenses incurred as a result of providing such service. To the extent intercity bus service is provided under the program, preference shall be given to private bus operators who lawfully have provided rural highway passenger transportation over the routes or within the general area of the demonstration project.

"(b) Prior to the obligation of any funds for a demonstration project under this section, the Secretary shall provide for public notice of any application for funds under this section which notice shall include the name of the applicant and the area to be served. Within sixty days thereafter, a public hearing on the project shall be held within the proposed service area."

TRANSPORTATION FOR ELDERLY AND HANDICAPPED PERSONS

Pub. L. 93-643, § 105(a), Jan. 4, 1975, 88 Stat. 2282, provided that:

"It is hereby declared to be the national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services; that special efforts shall be made in the planning, design, construction, and operation of mass transportation facilities and services so that the availability to elderly and handicapped persons of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance for mass transportation (including the programs under title 23, United States Code, the Federal-Aid Highway Act of 1973, and this Act [see Short Title of 1973 Amendment note under 101 of this title]) effectively implement this policy."

BUS AND OTHER PROJECT STANDARDS

Section 165 of Pub. L. 93-87, as amended by Pub. L. 93-643, § 105(b), Jan. 4, 1975, 88 Stat. 2283, provided that:

"(a) The Secretary of Transportation shall require that buses acquired with Federal financial assistance under (1) subsection (a) or (c) of section 142 of title 23, United States Code, (2) paragraph (4) of subsection (e) of section 103, title 23, United States Code, or (3) section 147 of the Federal-aid Highway Act of 1973 [set out as a note under this section] meet the standards prescribed by the Administrator of the Environmental Protection Agency under section 202 of the Clean Air Act [section 1857f-1 of Title 42, The Public Health and Welfare], and under section 6 of the Noise Control Act of 1972 [section 4905 of Title 42], and shall authorize the acquisition, wherever practicable, of buses which meet the special criteria for low-emission vehicles set forth in section 212 of the Clean Air Act [section 1857f-6e of Title 42], and for low-noise-emission products set forth in section 15 of the Noise Control Act of 1972 [section 4914 of Title 42].

"(b) The Secretary of Transportation shall require that projects receiving Federal financial assistance under (1) subsection (a) or (c) of section 142 of title 23, United States Code, (2) paragraph (4) of subsection (e) of section 103, title 23, United States Code, or (3) section 147 of the Federal-Aid Highway Act of 1973 [set out as a note above] shall be planned, designed, constructed, and operated to allow effective utilization by elderly or handicapped persons who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including those who are nonambulatory wheelchair-bound and those with semiambulatory capabilities, are unable without special facilities or special planning or design to utilize such facilities and services effectively. The Secretary shall not approve any program or project to which this section applies which does not comply with the provisions of this subsection requiring access to public mass transportation facilities, equipment, and services for elderly or handicapped persons."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 794; title 49 section 1602a.

§ 143. Economic growth center development highways

(a) In order to promote the desirable development of the Nation's natural resources, to revitalize and diversify the economy of rural areas and smaller communities, to enhance and disperse industrial growth, to encourage more balanced population patterns, to check, and, where possible, to reverse current migratory trends from rural areas and smaller communities, and to improve living conditions and the quality of the environment, the Secretary is authorized to make grants to States for projects for the construction, reconstruction, and improvement of development highways on a Federal-aid system (other than the Interstate System) to serve and promote the development of economic growth centers and surrounding areas, encourage the location of business and industry in rural areas, facilitate the mobility of labor in sparsely populated areas, and provide rural citizens with improved highways to such public and private services as health care, recreation, employment, education, and cultural activities, or otherwise encourage the social and economic development of rural communities, and for planning, surveys, and investigations in connection therewith.

(b) Each Governor may transmit to the Secretary his recommendations for (1) the selection of economic growth centers within the State, (2) priorities for the construction of development highways on a Federal-aid system (other than the Interstate System) to serve such centers, and (3) such other information as may be required by the Secretary, for his consideration in approving the selection of economic growth centers for projects.

(c) Upon the application of the State highway department of any State in which an economic growth center approved by the Secretary as eligible for a project is located, the Secretary is authorized to pay up to 100 per centum of the cost of engineering and economic surveys or other investigations necessary for the planning and design of development highways on a Federal-aid system (other than the Interstate System) needed to provide appropriate access to such growth center, including publicly owned airport facilities and public ports for water transportation which may be established to serve it, in order to carry out the purposes of this section.

(d) Except as otherwise provided in this section, all of the provisions of this title applicable to highways on the Federal-aid system on which such development highway is located except those which the Secretary determines

are inconsistent with this section shall apply to development highways and to funds authorized to carry out this section. For the purposes of sections 105, 106, and 118 of this title, funds authorized to carry out this section shall be deemed to be apportioned on January 1 next preceding the commencement of the fiscal year for which authorized. No State shall receive in any fiscal year more than 15 per centum of the funds authorized to carry out this section for such fiscal year.

(e) Except as otherwise provided in subsection (c) of this section, the Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be the same as that provided under this title for any other project on the Federal-aid system on which such development highway is located.

(f)(1) Except in the case of a project subject to paragraph (2) of this subsection, no project shall be approved by the Secretary under this section until he has determined that such project will promote the aims and purposes set forth in subsection (a) of this section and that the economic growth center to be benefited will meet such criteria as he, after consultation with the Secretary of Commerce, deems necessary, including, but not limited to, the following: (1) growth centers shall be geographically and economically capable of contributing significantly to the development of the area, and (2) growth centers shall have a population not in excess of one hundred thousand according to the latest available Federal census. In approving projects the Secretary shall give preference to those areas offering the most potential for future economic growth.

(2) In the case of a project proposed to be conducted within the Appalachian region as defined in section 403 of the Appalachian Regional Development Act of 1965, no project shall be approved by the Secretary under this section until he shall have consulted with the Federal Cochairman of the Appalachian Regional Commission. In the case of a project proposed to be conducted within an economic development region as defined in title V of the Public Works and Economic Development Act of 1965, no project shall be approved by the Secretary under this section until he shall have consulted with the Federal Cochairman for such region and the Secretary of Commerce. In consultation with the appropriate official, the Secretary shall establish criteria for the selection of growth centers eligible for assistance under this section such that the aims and purposes set forth in subsection (a) of this section will be promoted. Such criteria shall include, but not be limited to, the following: (1) growth centers shall be geographically and economically capable of contributing significantly to the development of the area, (2) growth centers shall have a population not in excess of one hundred thousand persons according to the latest available Federal census, and (3) the selection of such growth centers within the Appalachian region and the economic development regions shall take into account the purposes of the Appalachian Regional Development Act of 1965 and the Public Works and Economic Development Act of 1965. In approving projects the Secretary shall give preference to those areas offering the most potential for future economic growth and he shall make arrangements for close coordination throughout the development and implementation of the project with the Federal Cochairman of the Appalachian Regional Commission, or with the appropriate Federal Cochairman of an economic development region, and the Secretary of Commerce, as the case may be.

(g) There is authorized to be appropriated out of the Highway Trust Fund not to exceed $50,000,000 for the fiscal year ending June 30, 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973.

(Added Pub. L. 91-605, title I, § 127(a), Dec. 31, 1970, 84 Stat. 1729, and amended Pub. L. 93-87, title I, § 122, Aug. 13, 1973, 87 Stat. 261.)

REFERENCES IN TEXT

The Appalachian Regional Development Act of 1965, referred to in subsec. (f)(2), is Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, which is set out in the Appendix to Title 40, Public Buildings, Property, and Works. Section 403 of that Act, also referred to in subsec. (f)(2), is set out in section 403 of the Appendix to Title 40. For complete classification of this Act to the Code, see Tables volume.

The Public Works and Economic Development Act of 1965, referred to in subsec. (f)(2), is Pub. L. 89-136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified generally to chapter 38 (§ 3121 et seq.) of Title 42, The Public Health and Welfare. Title V of the Public Works and Economic Development Act of 1965, also referred to in subsec. (f)(2), is classified generally to subchapter V (§ 3181 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables volume.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-87 § 122(a), (c) substituted "projects" for "demonstration projects" and "a Federal-aid system (other than the Interstate System)" for "the Federal-aid primary system" and deleted "to demonstrate the role that highways can play" preceeding "to promote".

Subsec. (b). Pub. L. 93-87, § 122(a), substituted "projects" for "demonstration projects" and "a Federal-aid system (other than the Interstate System)" for "the Federal-aid primary system".

Subsec. (c). Pub. L. 93-87, § 122(a), substituted "project" for "demonstration project" and "a Federal-aid system (other than the Interstate System)" for "the Federal-aid primary system".

Subsec. (d). Pub. L. 93-87, § 122(a), substituted "highways on the Federal-aid system on which such development highway is located" for "Federal-aid primary highways".

Subsec. (e). Pub. L. 93-87, § 122(b), inserted introductory phrase "Except as otherwise provided in subsection (c) of this section," and substituted "the Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be the same as that provided under this title for any other project on the Federal-aid system on which such development highway is located" for "the Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be increased by not to exceed an additional 20 per centum of the cost of such project, except that in no case shall the Federal share exceed 95 per centum of the cost of such project".

§ 144. Special bridge replacement program

(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a special bridge replacement program be established to enable the several States to replace bridges over waterways or other topographical barriers when the States and the Secretary finds that the bridge is significantly important and is unsafe because of structural deficiences, physical deterioration, or functional obsolescence.

(b) The Secretary in consultation with the States shall (1) inventory all bridges located on any of the Federal-aid systems over waterways and other topographical barriers of the United States; (2) classify them according to their serviceability, safety, and essentiality for public use; and (3) based on that classification, assign each a priority for replacement.

(c) Whenever any State or States make application to the Secretary for assistance in replacing a bridge which the priority system, established under subsection. (b) of this section, shows to be eligible, the Secretary may approve Federal participation in the reconstruction of a comparable facility. In approving projects under this section, the Secretary shall give consideration to those projects which will remove from service bridges which are most in danger of failure and give consideration to the economy of the area involved. Approval of projects and allocation of funds under this section shall be without regard to allocation or apportionment formulas otherwise established under this title.

(d) The Federal share payable on account of any bridge replacement under this section shall not exceed 75 per centum of the cost thereof.

(e) For the purpose of carrying out the provisions of this section, there are hereby authorized to be appropriated out of the Highway Trust Fund $100,000,000 for the fiscal year ending June 30, 1972, $150,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $125,000,000 for the fiscal year ending June 30, 1976, to be available until expended. Such funds shall be available for obligation at the beginning of the fiscal year for which authorized in the same manner and to the same extent as if such funds were apportioned under this chapter.

(f) Funds authorized by this section shall be available solely for expenditure for projects on any Federal-aid system.

(g) Notwithstanding any other provisions of law the General Bridge Act of 1946 (33 U.S.C. 525-533) shall apply to bridges authorized to be reconstructed and bridges constructed to replace unsafe bridges under this section.

(h) The Secretary shall report annually on projects approved under this section with any recommendations he may have for further improvement in the special bridge replacement program authorized in accordance with this section.

(Added Pub. L. 91-605, title II, § 204(a), Dec. 31, 1970, 84 Stat. 1741, and amended Pub. L. 93-87, title II, § 204, Aug. 13, 1973, 87 Stat. 284; Pub. L. 93-643, § 113, Jan. 4, 1975, 88 Stat. 2286.)

REFERENCES IN TEXT

The General Bridge Act of 1946, referred to in subsec. (g), is act Aug. 2, 1946, ch. 753, title V, 60 Stat. 847, which is classified generally to subchapter II (§ 525 et seq.) of chapter 11 of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 525 of Title 33 and Tables volume.

AMENDMENTS

1975—Subsec. (e). Pub. L. 93-643 increased appropriations authorization to $125,000,000 from $75,000,000 for fiscal year ending June 30, 1976.

1973—Subsec. (e). Pub. L. 93-87, § 204(a), provided for appropriations authorization of $25,000,000, $75,000,000, and $75,000,000 for fiscal years ending June 30, 1974, 1975, and 1976.

Subsec. (f). Pub. L. 93-87, § 204(b), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 93-87, § 204(b), redesignated former subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 93-87, § 204(c), redesignated former subsec. (g) as (h).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 104 of this title.

§ 145. Federal-State relationship

The authorization of the appropriation of Federal funds or their availability for expenditure under this chapter shall in no way infringe on the sovereign rights of the States to determine which projects shall be federally financed. The provisions of this chapter provide for a federally assisted State program.

(Added Pub. L. 93-87, title I, § 123(a), Aug. 13, 1973, 87 Stat. 261.)

[§ 146. Repealed. Pub. L. 94-280, title I, § 128(a), May 5, 1976, 90 Stat. 440]

Section, added Pub. L. 93-87, title I, § 125(a), Aug. 13, 1973, 87 Stat. 262, related to a special urban high density traffic program.

§ 147. Priority primary routes

(a) High traffic sections of highways on the Federal-aid primary system which connect to the Interstate System shall be selected by each State highway department, in consultation with appropriate local officials, subject to approval by the Secretary, for priority of improvement to supplement the service provided by the Interstate System by furnishing needed adequate traffic collector and distributor facilities. For the purpose of this section such highways shall hereafter in this section be referred to as "priority primary routes".

(b) The Federal share of any project on a priority primary route shall be that provided in section 120(a) of this title. All provisions of this title applicable to the Federal-aid primary system shall be applicable to the priority primary routes selected under this section.

(c) The initial selection of the priority primary routes and the estimated cost of completing such routes shall be reported to Congress on or before July 1, 1974.

(d) There is authorized to be appropriated out of the Highway Trust Fund to carry out this section not to exceed $100,000,000 for the fiscal year ending June 30, 1974, $200,000,000 for the fiscal year ending June 30, 1975, and

$300,000,000 for the fiscal year ending June 30, 1976.

(Added Pub. L. 93-87, title I, § 126(a), Aug. 13, 1973, 87 Stat. 263, and amended Pub. L. 94-280, title I, § 130, May 5, 1976, 90 Stat. 440.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-280 deleted apportionment provisions appearing at end of second sentence and as a third sentence reading "except that one-half of such funds shall be apportioned among the States in accordance with section 104(b)(1) of this title, and one-half shall be apportioned among the States in accordance with section 104(b)(3) of this title. Funds authorized to carry out this section shall be deemed to be apportioned on January 1 next preceding the commencement of the fiscal year for which authorized."

§ 148. Development of a national scenic and recreational highway

(a) As soon as possible after the date of enactment of this section, the Secretary shall establish criteria for the location and construction or reconstruction of the Great River Road by the ten States bordering the Mississippi River. Such criteria shall include requirements that—

(1) priority be given in the location of the Great River Road near or easily accessible to the larger population centers of the State[1] and further priority be given to the construction and improvement of the Great River Road in the proximity of the confluence of the Mississippi River and the Wisconsin River;

(2) the Great River Road be connected with other Federal-aid highways and preferably with the Interstate System;

(3) the Great River Road be marked with uniform identifying signs;

(4) effective control, as defined in section 131 of this title, of signs, displays, and devices will be provided along the Great River Road;

(5) the provisons of section 129(a) of this title shall not apply to any bridge or tunnel on the Great River Road and no fees shall be charged for the use of any facility constructed with assistance under this section.

(b) For the purpose of this section, the term "construction" includes the acquisition of areas of historical, archeological, or scientific interest, necessary easements for scenic purposes, and the construction or reconstruction of roadside rest areas (including appropriate recreational facilities), secenic viewing areas, and other appropriate facilities as determined by the Secretary.

(c) Highways constructed or reconstructed pursuant to this section (except subsection (f)) shall be part of the Federal-aid system.

(d) Funds appropriated for each fiscal year pursuant to subsection (g) shall be apportioned among the ten States bordering the Mississippi River on the basis of their relative needs as determined by the Secretary for payments to carry out this section.

(e) The Federal share of the cost of any project for any construction or reconstruction pursuant to the preceding subsections of this section shall be that provided in section 120 of this title for the Federal-aid system on which such project is located, and if such project is not on such a system, such share shall be 70 per centum of such cost.

(f) The Secretary is authorized to consult with the heads of other Federal departments and agencies having jurisdiction over Federal lands open to the public in order to enter into appropriate arrangements for necessary construction or reconstruction of highways on such lands to carry out this section. Highways constructed or reconstructed by a State pursuant to this section which are not on a Federal-aid system, and highways constructed or reconstructed under this subsection, shall be subject to the criteria applicable to highways constructed or reconstructed pursuant to subsection (c) of this section. Funds authorized pursuant to subsection (g) shall be used to pay the entire cost of construction or reconstruction pursuant to the first sentence of this subsection.

(g) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, for construction or reconstruction of roads on a Federal-aid highway system, not to exceed $10,000,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $25,000,000 for the fiscal year ending June 30, 1976, for allocations to the States pursuant to this section, and there is authorized to be appropriated to carry out this section out of any money in the Treasury not otherwise appropriated, not to exceed $10,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, for construction and reconstruction of roads not on a Federal-aid highway system.

(Added Pub. L. 93-87, title I, § 129(b), Aug. 13, 1973, 87 Stat. 265.)

REFERENCES IN TEXT

The "date of enactment of this section", referred to in subsec. (a), means Aug. 13, 1973, the date of approval of Pub. L. 93-87.

§ 149. Truck lanes

The Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential truck lanes.

(Added Pub. L. 93-87, title I, § 142(a), Aug. 13, 1973, 87 Stat. 272.)

§ 150. Allocation of urban system funds

The funds apportioned to any State under paragraph (6) of subsection (b) of section 104 of this title that are attributable to urbanized areas of 200,000 population or more shall be made available for expenditure in such urbanized areas for projects in programs approved under subsection (d) of section 105 of this title in accordance with a fair and equitable formula developed by the State which formula has been approved by the Secretary. Such formula shall provide for fair and equitable treatment of incorporated municipalities of 200,000 or more population. Whenever such a formula has not been developed and approved for a State, the funds apportioned to any State under paragraph (6) of subsection (b) of section 104 of this title which are attributable to urbanized areas having a population of 200,000 or more shall be allocated among such urbanized areas within

[1] So in original. Probably should be "States".

such State for projects in programs approved under subsection (d) of section 105 of this title in the ratio that the population within each such urbanized area bears to the population of all such urbanized areas, or parts thereof, within such State. In the expenditure of funds allocated under the preceding sentence, fair and equitable treatment shall be accorded incorporated municipalities of 200,000 or more population.

(Added Pub. L. 93-87, title I, § 157(a), Aug. 13, 1973, 87 Stat. 277.)

§ 151. Pavement marking demonstration program

(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a pavement marking demonstration program be established to enable the several States to improve the pavement marking of all highways to provide for greater vehicle and pedestrian safety.

(b) Notwithstanding the provisions of the last sentence of subsection (a) of section 105 of this title, the Secretary may approve under this section such pavement marking projects on any highway whether or not on any Federal-aid system, but not included in the Interstate System, as he may find necessary to bring such highway to the pavement marking standards issued or endorsed by the Federal Highway Administrator.

(c) In approving projects under this section, the Secretary shall give priority to those projects which are located in rural areas.

(d) The entire cost of projects approved under subsections (b) and (f) of this section shall be paid from sums authorized to carry out this section.

(e) For the purpose of carrying out the provisions of this section by the Federal Highway Administration, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1974, $25,000,000 and for each of the fiscal years ending June 30, 1975, and June 30, 1976, out of the Highway Trust Fund, the sum of $75,000,000. Such sums shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under this chapter.

(f) Funds not required for pavement-marking projects authorized by this section may be released by the Secretary for expenditure for projects to eliminate or reduce the hazards to safety at specific locations or sections of highways which are not located on any Federal-aid system and which have high accident experiences or high accident potentials. Funds may be released by the Secretary under this subsection only if the Secretary has received satisfactory assurances from the State highway department that all nonurban area highways within the State are marked in accordance with the pavement-marking standards issued or endorsed by the Federal Highway Administrator for carrying out this program.

(g) Each State shall report to the Secretary of Transportation not later than September 30, 1974, and not later than September 30 of each year thereafter, on the progress being made in implementing the program and the effectiveness of the improvements made under it. Each report shall include an analysis and evaluation of the number, rate, and severity of accidents at improved locations and the cost-benefit ratio of such improvements, comparing an adequate time period before and after treatment in order to properly assess the benefits occurring from such pavement markings. The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1975, and not later than January 1 of each year thereafter, on the progress being made in implementing the program and the safety benefits achieved under it. No State shall submit any such report to the Secretary for any year after the second year following completion of the pavement marking program in that State, and the Secretary shall not submit any such report to Congress after the first year following the completion of the pavement marking program in all States.

(Added Pub. L. 93-87, title II, § 205(a), Aug. 13, 1973, 87 Stat. 284, and amended Pub. L. 94-280, title II, § 207, May 5, 1976, 90 Stat. 454.)

Amendments

1976—Subsec. (c). Pub. L. 94-280, § 207(a), deleted "and which are either on the Federal-aid secondary system or are not included on any Federal-aid system" following "rural areas".

Subsec. (g). Pub. L. 94-280, § 207(b), added prohibition against State submission of a report to the Secretary for any year after the second year following completion of the pavement marking program in that State against Secretary's submission of a report to Congress after the first year following the completion of the pavement marking program in all States.

Pavement Marking Research and Demonstration Programs; Appropriations Authorizations

Section 206 of Pub. L. 93-87 provided that:

"(a) In addition to the research authorized by section 307(a) of title 23, United States Code, the Secretary of Transportation is authorized to conduct research and demonstration programs to improve the effectiveness and durability of various types of pavement markings and related delineators, to develop improved equipment and techniques for applying, erecting, and maintaining such markings and delineators, and to develop new traffic control materials, devices, and related delineators to assist the traveling public during adverse weather and nighttime driving conditions.

"(b) There is authorized to be appropriated to carry out this section by the Federal Highway Administration, out of the Highway Trust Fund, $10,000,000 for the fiscal year ending June 30, 1974, and $10,000,000 for the fiscal year ending June 30, 1975."

§ 152. Projects for high-hazard locations

(a) Each State shall conduct and systematically maintain an engineering survey of all highways to identify high-hazard locations which may constitute a danger to vehicles and to pedestrians, assign priorities for the correction of such locations, and establish and implement a schedule of projects for their improvement.

(b) For projects to eliminate or reduce the hazards at specific locations or sections of highways which have high accident experiences or high accident potentials, by the Federal Highway Administration, there is hereby authorized to be appropriated, out of the Highway Trust Fund, for the fiscal year ending June 30, 1974, $50,000,000 and for each of the fiscal years

ending June 30, 1975, and June 30, 1976, the sum of $75,000,000 shall be appropriated out of the Highway Trust Fund. Such sums shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under this chapter.

(c) Funds authorized by this section shall be available solely for expenditure for projects on any Federal-aid system (other than the Interstate System) except in the Virgin Islands, Guam, and American Samoa.

(d) Funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as is provided in section 402(c) of this title, and the Federal share payable on account of any such project shall be 90 per centum of the cost thereof.

(e) Each State shall report to the Secretary of Transportation not later than September 30, 1974, and not later than September 30 of each year thereafter, on the progress being made to implement projects for high-hazard locations and the effectiveness of such improvements. Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate hazards and the previous and subsequent accident experience at these locations. The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1975, and not later than January 1 of each year thereafter, on the progress being made by the States in implementing projects for improvements at high-hazard locations. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, means and methods used, and the previous and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a) and include recommendations for future implementation of the spot improvements program.

(f) For the purposes of this section the term "State" shall have the meaning given it in section 401 of this title.

(Added Pub. L. 93-87, title II, § 209(a), Aug. 13, 1973, 87 Stat. 286, and amended Pub. L. 94-280, title I, § 131, May 5, 1976, 90 Stat. 441.)

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-280 added subsec. (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 104 of this title.

§ 153. Program for the elimination of roadside obstacles

(a) Each State shall conduct and systematically maintain an engineering survey of all highways to identify roadside obstacles which may constitute a hazard to vehicles and to pedestrians, assign priorities for the correction of such obstacles and establish and implement a schedule of projects for their elimination. Such a schedule shall provide for the replacement, to the extent necessary, of existing sign and light supports which are not designed to yield or break away upon impact. Yielding or breakaway sign and light supports shall be used, where appropriate, on all new construction or reconstruction of highways.

(b) For projects to correct roadside hazards by the Federal Highway Administration, there is hereby authorized to be appropriated, out of the Highway Trust Fund, for the fiscal year ending June 30, 1974, $25,000,000, and for each of the fiscal years ending June 30, 1975, and June 30, 1976, the sum of $750,000,000. Such sums shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under this chapter.

(c) Funds authorized by this section shall be available solely for expenditure for projects on any Federal-aid system (other than the Interstate System) except in the Virgin Islands, Guam, and American Samoa.

(d) Funds made available in accordance with subsection (c) shall be apportioned to the States in the same manner as is provided in section 402(c) of this title, and the Federal share payable on account of any such project shall be 90 per centum of the cost thereof.

(e) Each State shall report to the Secretary of Transportation not later than September 30, 1974, and not later than September 30 of each year thereafter, on the progress being made in implementing the program for the removal of roadside obstacles and the effectiveness of such improvements. Each report shall contain an assessment of the costs and safety benefits of the various means and methods used to mitigate or eliminate roadside obstacles. The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1975, and not later than January 1 of each year thereafter, on the progress being made by the States in eliminating roadside obstacles and the effectiveness of the improvements made under this program. The Secretary's report shall include, but not be limited to, an analysis and evaluation of each State program, identification of any State found not to be in compliance with the schedule of improvements required by subsection (a) and shall include recommendations for future implementation of the roadside obstacle removal program. In addition, to assess the safety benefits of varying roadside obstacle treatments, the report shall contain an assessment of the costs and safety benefits of the various means and methods used to mitigate or eliminate roadside obstacles.

(f) For the purposes of this section the term "State" shall have the meaning given it in section 401 of this title.

(Added Pub. L. 93-87, title II, § 210(a), Aug. 13, 1973, 87 Stat. 287, and amended Pub. L. 94-280, title I, § 131, May 5, 1976, 90 Stat. 441.)

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-280 added subsec. (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 104 of this title.

§ 154. National maximum speed limit

(a) The Secretary of Transportation shall not approve any project under section 106 in any State which has (1) a maximum speed limit on any public highway within its jurisdiction in excess of fifty-five miles per hour, or (2) a

speed limit on any other portion of a public highway within its jurisdiction which is not uniformly applicable to all types of motor vehicles using such portion of highway, if on November 1, 1973, such portion of highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. A lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon. Clause (2) of this subsection shall not apply to any portion of a highway during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway.

(b) As used in this section the term "motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

(c) Notwithstanding the provisions of section 120 sums apportioned to any State under section 104 shall be available to pay the entire cost of any modification of the signing of the Federal-aid highways for which such sums are apportioned within such State due to a reduction in speed limits to conserve fuel if such change in signing occurs or has occurred after November 1, 1973.

(d) The requirements of this section shall be deemed complied with by administrative action lawfully taken by the Governor or other appropriate State official that complies with this section.

(Added Pub. L. 93-643, § 114(a), Jan. 4, 1975, 88 Stat. 2286.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 141 of this title.

§ 155. Access highways to public recreation areas on certain lakes

(a) The Secretary is authorized to construct or reconstruct access highways to public recreation areas on lakes in order to accommodate present and projected traffic density. The Secretary shall develop guidelines and standards for the designation of routes and the allocation of funds for the purpose of this section which shall include the following criteria:

(1) No portion of any access highway constructed or reconstructed under this section shall exceed thirty-five miles in length nor shall any portion of such highway be located more than thirty-five miles from the nearest part of such recreation area.

(2) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials, after consultation with the head of the Federal agency (if any) having jurisdiction over the public recreation area involved.

(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 70 per centum of the cost of construction or reconstruction of such project.

(c) All of the provisions of this title applicable to highways on the Federal-aid system (other than the Interstate System) determined appropriate by the Secretary, except those provisions which the Secretary determines are inconsistent with this section, shall apply to any highway designated under this section which is not a part of the Federal-aid system when so designated.

(d) For the purpose of this section the term "lake" means any lake, reservoir, pool, or other body of water resulting from the construction of any lock, dam, or similar structure by the Corps of Engineers, Department of the Army, or the Bureau of Reclamation, Department of the Interior, or the Tennessee Valley Authority, and any multipurpose lake resulting from construction assistance of the Soil Conservation Service, Department of Agriculture. This section shall apply to lakes heretofore or hereafter constructed or authorized for construction.

(e) There is authorized to be appropriated not to exceed $25,000,000 for the fiscal year 1976 to carry out this section. Amounts authorized by this subsection for a fiscal year shall be available for that fiscal year and for the two succeeding fiscal years.

(Added Pub. L. 93-643, § 115(a), Jan. 4, 1975, 88 Stat. 2287.)

APPROPRIATIONS; RESCISSION OF APPROPRIATIONS AUTHORIZATION

Pub. L. 94-134, title I, § 101, Nov. 24, 1975, 89 Stat. 703, appropriated in part: "For necessary expenses not otherwise provided, to carry out the provisions of section 115(a), 'Federal-Aid Highway Amendments of 1974 [this section]'; $10,000,000, to remain available until September 30 1978: Provided, That any authority to incur obligations granted by section 115 of the Federal-Aid Highway Amendments of 1974 [subsec. (e) of this section] is hereby rescinded."

§ 156. Highways crossing Federal projects

(a) The Secretary is authorized to construct and to reconstruct any public highway or highway bridge across any Federal public works project, notwithstanding any other provision of law, where there has been a substantial change in the requirements and costs of such highway or bridge since the public works project was authorized, and where such increased costs would work an undue hardship upon any one State. No such highway or bridge shall be constructed or reconstructed under authority of this section until the State shall agree that upon completion of such construction or reconstruction it will accept ownership to such highway or bridge and will thereafter operate and maintain such highway or bridge.

(b) There is hereby authorized to be appropriated not to exceed $100,000,000 to carry out this section. Amounts authorized by this subsection shall be available for the fiscal year in which appropriated and for two succeeding fiscal years.

(Added Pub. L. 94-280, title I, § 132(a), May 5, 1976, 90 Stat. 441.)

CHAPTER 2—OTHER HIGHWAYS

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AMENDMENTS

1976—Pub. L. 94-280, title I, § 135(b), May 5, 1976, 90 Stat. 442, substituted item 219 "Safer of off-system roads" for "Off-system roads".

1975—Pub. L. 93-643, § 122(b), Jan. 4, 1975, 88 Stat. 2290, added item 219.

1973—Pub. L. 93-87, title I, §§ 124(b), 127(a)(2), Aug. 13, 1973, 87 Stat. 262, 264, added items 217 and 218.

1970—Pub. L. 91-605, title I, §§ 112(b), 113(b), Dec. 31, 1970, 84 Stat. 1721, 1722, added items 215 and 216.

1962—Pub. L. 87-866, § 6(c), Oct. 23, 1962, 76 Stat. 1147, added item 214.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 101, 317 of this title.

§ 201. Authorizations

The provision of this title shall apply to all unappropriated authorizations contained in prior Acts, and also to all unexpended appropriations heretofore made, providing for the expenditure of Federal funds on the following classes of highways: Forest highways, forest development roads and trails, park roads and trails, parkways, Indian reservation roads, public lands highways, and defense access roads. All such authorizations and appropriations shall continue in full force and effect, but hereafter obligations entered into and expenditures made pursuant thereto shall be subject to the provisions of this title.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 906.)

§ 202. Apportionment or allocation

(a) On October 1 of each fiscal year, the Secretary shall apportion the sums authorized to be appropriated for such fiscal year for forest highways in the several States, according to the area and value of the land owned by the United States within the national forests therein, which the Secretary of Agriculture is directed to determine and certify to the Secretary from such information, sources, and departments as the Secretary of Agriculture may deem most accurate.

(b) Sums authorized to be appropriated for forest development roads and trails shall be allocated by the Secretary of Agriculture according to the relative needs of the various national forests, taking into consideration the existing transportation facilities, value of timber or other resources served, relative fire danger, and comparative difficulties of road and trail construction.

(c) Sums authorized to be appropriated for public lands highways shall be allocated by the Secretary among those States having unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations, on the basis of need in such States, respectively, as determined by the Secretary upon application of the State highway departments of the respective States. Preference shall be given to those projects which are located on a Federal-aid system.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 906; Pub. L. 94-280, title I, § 133, May 5, 1976, 90 Stat. 441.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-280 substituted introductory "On October 1 of each fiscal year" for "On or before January 1 next preceding the commencement of each fiscal year".

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 203. Availability of funds

Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads and trails, parkways, Indian reservation roads, and public lands highways shall be available for contract upon apportionment, or on October 1 of the fiscal year for which authorized if no apportionment is required. Any amount remaining unexpended for a period of three years after the close of the fiscal year for which authorized shall lapse. The Secretary of the Department charged with the administration of such funds is granted authority to incur obligations, approve projects, and enter into contracts under such authorizations and his action in doing so shall be deemed a contractual obligation of the United States for the payment of the cost thereof and such funds shall be deemed to have been expended when so obligated. Any funds heretofore or hereafter authorized for any fiscal year for forest highways, forest development roads and trails, public lands development roads and trails, park roads and trails, parkways, Indian roads and public lands highways shall be deemed to have been expended if a sum equal to the total of the sums authorized for such fiscal year and previous fiscal years since and including the fiscal year ending June 30, 1955, shall have been obligated. Any of such funds released by payment of final voucher or modification of project authorizations shall be credited to the balance of unobligated authorizations and be immediately available for expenditure.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 906; Pub. L. 86-657, § 8(b), July 14, 1960, 74 Stat. 524; Pub. L. 87-866, § 7, Oct. 23, 1962, 76 Stat. 1147; Pub. L. 94-280, title I, § 117(b), May 5, 1976, 90 Stat. 437.)

AMENDMENTS

1976—Pub. L. 94-280 substituted "or on October 1" for "or a date not earlier than one year preceding the beginning" in first sentence and "three years" for "two years" in second sentence.

1962—Pub. L. 87-866 inserted "public lands development roads and trails," preceding "park roads and trails", in two instances.

1960—Pub. L. 86-657 substituted "Funds authorized" for "Funds now authorized" in the first sentence.

[1] So in original. Does not conform to section catchline.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 204. Forest highways

(a) Funds available for forest highways shall be used by the Secretary to pay for the cost of construction and maintenance thereof. In connection therewith, the Secretary may enter into construction contracts and such other contracts with a State, or civil subdivision thereof as he deems advisable.

(b) Cooperation of States, counties, or other local subdivisions, may be accepted but shall not be required by the Secretary.

(c) Construction estimated to cost $5,000 or more per mile, exclusive of bridges, shall be advertised and let to contract. If such estimated cost is less than $5,000 per mile or if, after proper advertising, no acceptable bid is received or the bids are deemed excessive, the work may be done by the Secretary on his own account. For such purpose, the Secretary may purchase, lease, hire, rent, or otherwise obtain all necessary supplies, materials, tools, equipment, and facilities required to perform the work, and may pay wages, salaries, and other expenses for help employed in connection with such work.

(d) All appropriations for forest highways shall be administered in comformity with regulations jointly approved by the Secretary and the Secretary of Agriculture.

(e) The Secretary shall transfer to the Secretary of Agriculture from appropriations for forest highways such amounts as may be needed to cover necessary administrative expenses of the Forest Service in connection with the forest-highway program.

(f) Funds available for forest highways shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 907.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 211, 315 of this title.

§ 205. Forest development roads and trails

(a) Funds available for forest development roads and trails shall be used by the Secretary of Agriculture to pay for the costs of construction and maintenance thereof, including roads and trails on experimental and other areas under Forest Service administration. In connection therewith, the Secretary of Agriculture may enter into contracts with a State or civil subdivision thereof, and issue such regulations as he deems advisable.

(b) Cooperation of States, counties, or other local subdivisions may be accepted but shall not be required by the Secretary of Agriculture.

(c) Construction estimated to cost $15,000 or more per mile or $15,000 or more per project for projects with a length of less than one mile, exclusive of bridges and engineering, shall be advertised and let to contract. If such estimated cost is less than $15,000 per mile or $15,000 per project for projects with a length of less than one mile or if, after proper advertising, no acceptable bid is received or the bids are deemed excessive, the work may be done by the Secretary of Agriculture on his own account.

(d) Funds available for forest development roads and trails shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 907; Pub. L. 86-657, § 8(c), July 14, 1960, 74 Stat. 524; Pub. L. 88-423, § 4(d), Aug. 13, 1964, 78 Stat. 398; Pub. L. 90-495, § 9, Aug. 23, 1968, 82 Stat. 820.)

AMENDMENTS

1968—Subsec. (c). Pub L. 90-495 increased from $10,000 to $15,000 the cost limitation on construction per mile, or per project for projects of less than a mile, which the Forest Service may construct on its own account and struck out provisions spelling out the functions which the Secretary of Agriculture is authorized to perform in carrying out such construction.

1964—Subsec. (a). Pub. L. 88-423 inserted "and other" following "experimental".

1960—Subsec. (a). Pub. L. 86-657 substituted "may enter into contracts" for "may enter into construction contracts".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 211, 315 of this title.

§ 206. Park roads and trails

(a) Funds available for park roads and trails shall be used to pay for the cost of construction and improvement thereof.

(b) Appropriations for the construction and improvement of park roads shall be administered in conformity with regulations jointly approved by the Secretary and the Secretary of Interior.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 908.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 315 of this title.

§ 207. Parkways

(a) Funds available for parkways shall be used to pay for the cost of construction and improvement thereof, including the acquisition of rights-of-way and related scenic easements.

(b) Appropriations for the construction of parkways shall be administered in conformity with regulations jointly approved by the Secretary and the Secretary of the Interior.

(c) The location of parkways upon public lands, national forests, or other Federal reservations, shall be determined by agreement between the department having jurisdiction over such lands and the Secretary of the Interior.

(d) Any parkway project on a Federal-aid system shall be subject to all of the require-

ments of this title and of any other law applicable to highways on such system.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 908; Pub. L. 93-87, title I, § 150, Aug. 13, 1973, 87 Stat. 275.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-87, § 150(a), provided for use of parkway funds for payment of cost of acquisition of rights-of-way and related scenic easements.
Subsec. (d). Pub. L. 93-87, § 150(b), added subsec. (d).

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 315 of this title.

§ 208. Indian reservation roads

(a) Funds available for Indian reservation roads and bridges shall be used to pay for the cost of construction and improvement thereof.

(b) The Secretary shall approve the location, type, and design of all projects for Indian reservation roads and bridges before any expenditures are made thereon and all construction thereof shall be under the general supervision of the Secretary.

(c) Before approving as a project on an Indian reservation road or bridge any project on a Federal-aid system in a State, the Secretary must determine that obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads and bridges, of a fair and equitable share of funds apportioned to such State under section 104 of this title.

(d) Indian labor may be employed in such construction and improvement under such rules and regulations as may be prescribed by the Secretary of the Interior.

(e) Cooperation of States, counties, or other local subdivisions may be accepted in such construction and improvement, and any funds, received from a State, county, or local subdivision shall be credited to appropriations available for Indian reservation roads and bridges.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 908; Pub. L. 87-282, Sept. 22, 1961, 75 Stat. 584; Pub. L. 93-643, § 102(c), Jan. 4, 1975, 88 Stat. 2281.)

AMENDMENTS

1975—Subsecs. (c) to (e). Pub. L. 93-643 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.
1961—Subsec. (d). Pub. L. 87-282 added subsec. (d).

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 315 of this title.

§ 209. Public lands highways

(a) Funds available for public lands highways shall be used by the Secretary to pay for the cost of construction and maintenance thereof.

(b) The Secretary is authorized to cooperate with the State highway departments and with the Secretary of the Department having jurisdiction over the particular lands, in the survey, construction, and maintenance of public lands highways.

(c) The provisions of section 112 of this title are applicable to public lands highways.

(d) Funds available for public lands highways shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 908; Pub. L. 88-423, § 4(b), Aug. 13, 1964, 78 Stat. 397.)

AMENDMENTS

1964—Subsec. (d). Pub. L. 88-423 added subsec. (d).

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 210. Defense access roads

(a) The Secretary is authorized, out of the funds appropriated for defense access roads, to provide for the construction and maintenance of defense access roads (including bridges, tubes, and tunnels thereon) to military reservations, to defense industries and defense industry sites, and to the sources of raw material when such roads are certified to the Secretary as important to the national defense by the Secretary of Defense or such other official as the President may designate, and for replacing existing highways and highway connections that are shut off from the general public use by necessary closures or restrictions at military reservations and defense industry sites.

(b) Funds appropriated for the purposes of this section shall be available, without regard to apportionment among the several States, for paying all or any part of the cost of the construction and maintenance of defense access roads.

(c) Not exceeding $5,000,000 of any funds appropriated under the Act approved October 16, 1951 (65 Stat. 422), may be used by the Secretary in areas certified to him by the Secretary of Defense as maneuver areas for such construction, maintenance, and repair work as may be necessary to keep the highways therein, which have been or may be used for training of the Armed Forces, in suitable condition for such training purposes and for repairing the damage caused to such highways by the operations of men and equipment in such training.

(d) Whenever any project for the construction of a circumferential highway around a city or of a radial intracity route thereto submitted by any State is certified by the Secretary of Defense, or such other official as the President may designate, as being important for civilian or military defense, such project may be constructed out of the funds heretofore or hereafter authorized to be appropriated for defense access roads.

(e) If the Secretary shall determine that the State highway department of any State is unable to obtain possession and the right to enter upon and use the required rights-of-way, lands, or interest in lands, improved or unimproved, required for any project authorized by this section with sufficient promptness, the Secretary is authorized to acquire, enter upon, take possession thereof, and expend funds for

projects thereon, prior to approval of title by the Attorney General, in the name of the United States, such rights-of-way, lands, or interest in lands as may be required in such State for such projects by purchase, donation, condemnation, or otherwise in accordance with the laws of the United States (including the Act of February 26, 1931; 46 Stat. 1421). The cost incurred by the Secretary in acquiring any such rights-of-way, lands, or interest in lands may include the cost of examination and abstract of title, certificate of title, advertising, and any fees incidental to such acquisition; and shall be payable out of the funds available for paying the cost or the Federal share of the cost of the project for which such rights-of-way, lands, or interests in lands are acquired. The Secretary is further authorized and directed by proper deed executed in the name of the United States to convey any lands or interests in lands acquired in any State under the provisions of prior Acts or of this section to the State highway department of such State or to such political subdivision thereof as its laws may provide, upon such terms and conditions as may be agreed upon by the Secretary and the State highway department, or political subdivisions to which the conveyance is to be made.

(f) The provisions of section 112 of this title are applicable to defense access roads.

(g) If the Secretary shall determine that it is necessary for the expeditious completion of any defense access road project he may advance to any State out of funds appropriated for defense access roads transferred and available to the Department of Commerce the Federal share of the cost of construction thereof to enable the State highway department to make prompt payments for acquisition of rights-of-way, and for the construction as it progresses. The sums so advanced shall be deposited in a special fund by the State official authorized by State law to receive such funds, to be disbursed solely upon vouchers approved by the State highway department for rights-of-way which have been or are being acquired and for construction which has been actually performed under this section. Upon determination by the Secretary that funds advanced to any State under the provisions of this subsection are no longer required, the amount of the advance which is determined to be in excess of requirements for the project shall be repaid upon his demand, and such repayments shall be returned to the credit of the appropriation from which the funds were advanced.

(h) Funds appropriated for the purposes of this section shall be available to pay the cost of repairing damage caused to highways by the operation of vehicles and equipment in the construction of classified military installations and facilities for ballistic missiles if the Secretary shall determine that the State highway department of any State is, or has been, unable to prevent such damage by restrictions upon the use of such highways without interference with, or delay in, the completion of a contract for the construction of such military reservations or installations. This subsection shall apply notwithstanding any provision of contract holding a party thereto responsible for such damage, if the Secretary of Defense or his designee shall determine, in fact, that construction estimates and the bid of such party did not include allowance for repairing such damage. This subsection shall apply to damage caused by construction work commenced prior to June 1, 1961, and still in progress on that date and construction work which is commenced or for which a contract is awarded on or after June 1, 1961.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 908; Pub. L. 86-657, § 8(d), July 14, 1960, 74 Stat. 524; Pub. L. 87-61, title I, § 105, June 29, 1961, 75 Stat. 123.)

REFERENCES IN TEXT

The Act approved October 16, 1951, referred to in subsec. (c), means act Oct. 16, 1951, ch. 507, 65 Stat. 422, which was repealed by Pub. L. 85-767, § 2 [35].

The Act of February 26, 1931, referred to in subsec. (e), is act Feb. 26, 1931, ch. 307, 46 Stat. 1421, which enacted sections 258a to 258e of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1961—Subsec. (h). Pub. L. 87-61 added subsec. (h).
1960—Subsec. (g). Pub. L. 86-657 added subsec. (g).

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

CROSS REFERENCES

Availability of appropriations to military departments for advances for construction, maintenance and improvement of access roads, see section 700b of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 211 of this title; title 31 section 700b.

§ 211. Timber access road hearings

With respect to any proposed construction of a timber access road from funds authorized for carrying out the provisions of sections 204, 205, and 210 of this title, advisory public hearings may be held at a place of[1] convenient or adjacent to the area of construction with notice and reasonable opportunity for interested persons to present their views as to the practicability and feasibility of such construction.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 909.)

§ 212. Inter-American Highway

(a) Funds appropriated for the Inter-American Highway shall be used to enable the United States to cooperate with the Governments of the American Republics situated in Central America—that is, with the Governments of the Republic of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama—in the survey and construction of the Inter-American Highway within the borders of the aforesaid Republics, respectively. Not to exceed one-third of the appropriation authorized for each fiscal year may be expended without requiring the country or countries in which such funds may be expended to match any part thereof, if the Secretary of State shall find that the cost of constructing said highway in such country or

[1] So in original.

countries will be beyond their reasonable capacity to bear. The remainder of such authorized appropriations shall be available for expenditure only when matched to the extent required by this section by the country in which such expenditure may be made. Expenditures from the funds available on a matching basis shall not be made for the survey and construction of any portion of said highway within the borders of any country named herein unless such country shall provide and make available for expenditure in conjunction therewith a sum equal to at least one-third of the expenditures that may be incurred by that Government and the United States on such portion of the highway. All expenditures by the United States under the provisions of this section for material, equipment, and supplies shall, whenever practicable, be made for products of the United States or of the country in which such survey or construction work is being carried on. Construction work to be performed under contract shall be advertised for a reasonable period by the Minister of Public Works, or other similar official, of the government concerned in each of the participating countries and contracts shall be awarded pursuant to such advertisements with the approval of the Secretary. No part of the appropriations authorized shall be available for obligation or expenditure for work on said highway in any cooperating country unless the government of said country shall have assented to the provisions of this section; shall have furnished satisfactory assurances that it has an organization adequately qualified to administer the functions required of such country under the provisions hereof; and then only as such country may submit requests, from time to time, for the construction of any portion of the highway to standards adequate to meet present and future traffic needs. No part of said appropriations shall be available for obligation or expenditure in any such country until the government of that country shall have entered into an agreement with the United States which shall provide, in part, that said country—

(1) will provide, without participation of funds authorized, all necessary rights-of-way for the construction of said highway, which rights-of-way shall be of a minimum width where practicable of one hundred meters in rural areas and fifty meters in municipalities and shall forever be held inviolate as a part of the highway for public use;

(2) will not impose any highway toll, or permit any such toll to be charged, for use by vehicles or persons of any portion of said highway constructed under the provisions of this section;

(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of said highway by vehicles or persons from the United States that does not apply equally to vehicles or persons of such country;

(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with the provisions of the Convention for the Regulation of Inter-American Automotive Traffic, which was opened for signature at the Pan American Union in Washington on December 15, 1943, and to which such country and the United States are parties, or of any other treaty or international convention establishing similar reciprocal recognition; and

(5) will provide for the maintenance of said highway after its completion in condition adequately to serve the needs of present and future traffic.

(b) The survey and construction work authorized by this section shall be under the administration of the Secretary, who shall consult with the appropriate officials of the Department of State with respect to matters involving the foreign relations of this Government, and such negotiations with the Governments of the American Republics named in subsection (a) of this section as may be required to carry out the purposes of this section shall be conducted through, or as authorized by, the Department of State.

(c) The provisions of this section shall not create nor authorize the creation of any obligations on the part of the Government of the United States with respect to any expenditures of highway construction or survey heretofore or hereafter undertaken in any of the countries enumerated in subsection (a) of this section, other than the expenditures authorized by the provisions of this section.

(d) Appropriations made pursuant to any authorizations heretofore, or hereafter enacted for the Inter-American Highway shall be considered available for expenditure by the Secretary for necessary administrative and engineering expenses in connection with the Inter-American Highway program.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 909.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 216 of this title.

§ 213. Rama Road

(a) Recognizing the mutual benefits that will accrue to the Republic of Nicaragua and to the United States from the completion of the road from San Benito to Rama in said Republic of Nicaragua, the construction of which road was begun and partially completed pursuant to an agreement between said Republic and the United States, the Secretary is authorized out of the funds appropriated for such purposes to provide for the construction of such road. Appropriations made for such purposes shall remain available until expended. No expenditure shall be made hereunder for the construction of said road until a request therefor shall have been received by the Secretary of State from the Government of the Republic of Nicaragua nor until an agreement shall have been entered into by said Republic with the Secretary of State which shall provide, in part, that said Republic—

(1) will provide, without participation of funds authorized under this title, or under prior Acts, all necessary right-of-way for the construction of said highway, which right-of-way shall be of a minimum width, where

practicable, of one hundred meters in rural areas and fifty meters in municipalities and shall forever be held inviolate as a part of the highway for public use;

(2) will not impose any highway toll, or permit any such toll to be charged for the use of said highway by vehicles or persons;

(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of said road by vehicles or persons from the United States that does not apply equally to vehicles or persons of such Republic;

(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with the provisions of the Convention for the Regulation of Inter-American Automotive Traffic, which was opened for signature at the Pan American Union in Washington on December 15, 1943, and to which such Republic and the United States are parties; or any other treaty or international convention establishing similar reciprocal recognition; and

(5) will maintain said road after its completion in proper condition adequately to serve the needs of present and future traffic.

(b) The funds appropriated for such purposes shall be available for expenditure in accordance with the terms of this section for the survey and construction of said road from San Benito to Rama in the Republic of Nicaragua without being matched by said Republic, and all expenditures made under the provisions of this section for materials, equipment, and supplies, shall, whenever practicable, be made for products of the United States or of the Republic of Nicaragua.

(c) The survey and construction work undertaken pursuant to this section shall be under the general supervision of the Secretary.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 911.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 214. Public lands development roads and trails

(a) Funds available for public lands development roads and trails shall be used to pay the cost of construction and improvement of such roads and trails.

(b) Funds available for public lands development roads and trails shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.

(c) The Secretary shall approve the location, type, and design of all projects for public lands development roads and trails before any expenditures are made thereon and all construction thereof shall be under the general supervision of the Secretary.

(Added Pub. L. 87-866, § 6(b), Oct. 23, 1962, 76 Stat. 1147.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 215. Territorial highway program

(a) Recognizing the mutual benefits that will accrue to the Virgin Islands, Guam, and American Samoa, and to the United States from the improvement of highways in such territories of the United States, the Secretary is authorized to assist each such territorial government in a program for the construction and improvement of a system of arterial highways, and necessary interisland connectors designated by the Governor of such territory and approved by the Secretary. Federal financial assistance shall be granted under this subsection to such territories upon the basis of a Federal contribution of 70 per centum of the cost of any project.

(b) In order to establish a long-range highway development program, the Secretary is authorized to provide technical assistance for the establishment of an appropriate agency to administer on a continuing basis highway planning, design, construction and maintenance operations, the development of a system of arterial and collector highways, including necessary interisland connectors, and the establishment of advance acquisition of right-of-way and relocation assistance programs.

(c) No part of the appropriations authorized under this section shall be available for obligation or expenditure with respect to any territory until the Governor enters into an agreement with the Secretary providing that the government of such territory (1) will design and construct a system of arterial and collector highways, including necessary interisland connectors, built in accordance with standards approved by the Secretary; (2) will not impose any toll, or permit any such toll to be charged, for use by vehicles or persons of any portion of the facilities constructed or operated under the provisions of this section; (3) will provide for the maintenance of such facilities in a condition to adequately serve the needs of present and future traffic; (4) will implement standards for traffic operations and uniform traffic control devices which are approved by the Secretary.

(d)(1) Three per centum of the sums authorized to be appropriated for each fiscal year for carrying out subsection (a) of this section shall be available for expenditure only for engineering and economic surveys and investigations, for the planning of future highway programs and the financing thereof, for studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation therof, and for research and development, necessary in connection with the planning, design, and maintenance of the highway system, and the regulation and taxation of their use.

(2) In addition to the percentage provided in paragraph (1) of the subsection, not to exceed 2 per centum of sums authorized to be appropriated for each fiscal year for carrying out subsection (a) of this section may be expended upon request of the Governor and with the approval of the Secretary for the purposes enumerated in paragraph (1) of this subsection.

(e) None of the funds authorized to be appropriated for carrying out this section shall be obligated or expended for maintenance of the highway system.

(f) The provisions of chapters 1 and 5 of this title that are applicable to Federal-aid primary highway funds, other than provisions relating

to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section.

(Added Pub. L. 91-605, title I, § 112(a), Dec. 31, 1970, 84 Stat. 1720.)

AUTHORIZATION OF APPROPRIATIONS, THREE-MONTH PERIOD ENDING SEPTEMBER 30, 1976, AND FISCAL YEARS ENDING SEPTEMBER 30, 1977, AND 1978

Pub. L. 94-280, title I, § 105(a)(12), May 5, 1976, 90 Stat. 427, provided that:

"For carrying out section 215(a) of title 23, United States Code—

"(A) for the Virgin Islands, not to exceed $1,250,000 for the three-month period ending September 30, 1976, not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and not to exceed $5,000,000 for fiscal year ending September 30, 1978.

"(B) for Guam, not to exceed $1,250,000 for the three-month period ending September 30, 1976, not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and not to exceed $5,000,000 for fiscal year ending September 30, 1978.

"(C) for American Samoa, not to exceed $250,000 for the three-month period ending September 30, 1976, not to exceed $1,000,000 for the fiscal year ending September 30, 1977, and not to exceed $1,000,000 for the fiscal year ending September 30, 1978.

Sums authorized by this paragraph shall be available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code."

AUTHORIZATION OF APPROPRIATIONS, FISCAL YEARS ENDING JUNE 30, 1974, 1975, AND 1976

Pub. L. 93-87, title I, § 104(a)(12), Aug. 13, 1973, 87 Stat. 252, authorized the appropriation for each of fiscal years ending June 30, 1974, 1975, and 1976 of not to exceed $5,000,000 for the Virgin Islands, not to exceed $2,000,000 for Guam, and not to exceed $1,000,000 for American Samoa, such sums to be available for obligation at the beginning of the fiscal year for which authorized.

AUTHORIZATION OF APPROPRIATIONS, FISCAL YEARS ENDING JUNE 30, 1971, 1972, AND 1973

Section 112(c) and (d) of Pub. L. 91-605 authorized the appropriation of not to exceed $2,000,000 for each of fiscal years ending June 30, 1971, 1972, and 1973, for the Virgin Islands and Guam, and $500,000 for American Samoa, to carry out section 215(a) of this title; the sums appropriated for fiscal 1971 to be made available immediately and sums appropriated for fiscal 1972 and 1973 to be available at the beginning of the fiscal year for which authorized.

§ 216. Darien Gap Highway

(a) The United States shall cooperate with the Government of the Republic of Panama and with the Government of Colombia in the construction of approximately two hundred and fifty miles of highway in such countries in the location known as the "Darien Gap" to connect the Inter-American Highway authorized by section 212 of this title with the Pan American Highway System of South America. Such highway shall be known as the "Darien Gap Highway". Funds authorized by this section shall be obligated and expended subject to the same terms, conditions, and requirements with respect to the Darien Gap Highway as are funds authorized for the Inter-American Highway by subsection (a) of section 212 of this title.

(b) The construction authorized by this section shall be under the administration of the Secretary who shall consult with the appropriate officials of the Department of State with respect to matters involving the foreign relations of this Government, and such negotiations with the Governments of the Republic of Panama and Colombia as may be required to carry out the purposes of this section shall be conducted through, or authorized by, the Department of State.

(c) The provisions of this section shall not create nor authorize the creation of any obligations on the part of the Government of the United States with respect to any expenditures for highway survey or construction heretofore or hereafter undertaken in Panama or Colombia, other than the expenditures authorized by the provision of this section.

(d) Appropriations made pursuant to any authorization for the Darien Gap Highway shall be available for expenditure by the Secretary for necessary administrative and engineering expenses in connection with the Darien Gap Highway program.

(e) For the purposes of this section the term "construction" does not include any costs of rights-of-way, relocation assistance, or the elimination of hazards of railway grade crossings.

(Added Pub. L. 91-605, title I, § 113(a), Dec. 31, 1970, 84 Stat. 1721.)

AUTHORIZATION OF APPROPRIATIONS

Section 113(c) of Pub. L. 91-605 provided that: "There is hereby authorized to be appropriated not to exceed $100,000,000, to remain available until expended to enable the Secretary of Transportation to carry out section 216 of title 23, United States Code."

§ 217. Bicycle transportation and pedestrian walkways

(a) To encourage the multiple use of highway rights-of-way, including the development, improvement, and use of bicycle transportation and the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, on Federal-aid highway projects, include to the extent practicable, suitable, and feasible, the construction of separate or preferential bicycle lanes or paths, bicycle traffic control devices, shelters and parking facilities to serve bicycles and persons using bicycles, and pedestrian walkways in conjunction or connection with Federal-aid highways. Sums apportioned in accordance with paragraphs (1), (2), (3), and (6) of section 104(b) of this title shall be available for bicycle projects and pedestrian walkways authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

(b) For all purposes of this title, a bicycle or pedestrian walkway project authorized by subsection (a) of this section shall be deemed to be a highway project, and the Federal share payable on account of such bicycle project or pe-

destrian walkway shall be that provided in section 120 of this title.

(c) Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads and trails, parkways, Indian reservation roads and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of bicycle and pedestrian routes in conjunction with such trails, roads, highways, and parkways.

(d) No motorized vehicles shall be permitted on trails and walkways authorized under this section except for maintenance purposes and, when snow conditions and State or local regulations permit, snowmobiles.

(e) Not more than $45,000,000 of funds authorized to be appropriated in any fiscal year may be obligated for projects authorized by subsections (a) and (c) of this section, and no State shall obligate more than $2,500,000 for such projects in any fiscal year.

(Added Pub. L. 93-87, title I, § 124(a), Aug. 13, 1973, 87 Stat. 262, and amended Pub. L. 94-280, title I, § 134, May 5, 1976, 90 Stat. 441.)

AMENDMENTS

1976—Subsec. (e). Pub. L. 94-280 substituted "$45,000,000" for "$40,000,000" and "$2,500,000" for "$2,000,000".

BIKEWAY DEMONSTRATION PROGRAM

Pub. L. 93-643, § 119, Jan. 4, 1975, 88 Stat. 2288, provided that:

"(a) For the purpose of this section the term—

"(1) "bikeway" means a bicycle lane or path, or support facility, a bicycle traffic control device, a shelter, or a parking facility to serve bicycles and persons using bicycles;

"(2) "State" means any one of the fifty States, the District of Columbia, or Puerto Rico.

"(b)(1) The Secretary is authorized to make grants to States for demonstration projects for the construction of bikeways. Such bikeways shall be for commuting and for recreational purposes and shall be located in urbanized areas and such other urban areas as are designated by the State highway department under subsection 103(d) of title 23, United States Code.

"(2) The Federal share of any demonstration project for the construction of a bikeway shall be 80 per centum of the total cost of such project. The remaining 20 per centum of such cost shall be paid by the grantee.

"(3) No grant shall be made under authority of this Act [see Short Title note under section 101 of this title] unless such bikeway project is in accordance with continuing comprehensive transportation planning process carried on cooperatively by States and local communities in accordance with section 134 of title 23, United States Code.

"(4) The Secretary shall establish, by regulation, construction standards for bikeway projects for which grants are authorized by this Act, and shall establish, by regulation, such other requirements as may be necessary to carry out this Act.

"(c) Grants made under this Act shall be in addition to, and not in lieu of, any sums available for bicycle projects under section 217 of title 23, United States Code.

"(d) There are authorized to be appropriated to the Secretary to carry out this section $10,000,000 for the fiscal year 1976."

PEDESTRIAN AND BICYCLE SAFETY STUDY; REPORT TO CONGRESS; APPROPRIATIONS AUTHORIZATION

Scope of investigation and study of pedestrian and bicycle safety, report to Congress, and appropriations authorization, see section 214 of Pub. L. 93-87, set out as a note under section 401 of this title.

§ 218. Alaska Highway

(a) Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border, the Secretary is authorized out of the funds appropriated for the purpose of this section to provide for necessary reconstruction of such highway. Such appropriations shall remain available until expended. No expenditures shall be made for the construction of such highways until an agreement has been reached by the Government of Canada and the Government of the United States which shall provide, in part, that the Canadian Government—

(1) will provide, without participation of funds authorized under this title, all necessary right-of-way for the reconstruction of such highways;

(2) will not impose any highway toll, or permit any such toll to be charged for the use of such highways by vehicles or persons;

(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of such highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with agreements between the United States and Canada; and

(5) will maintain such highways after their completion in proper condition adequately to serve the needs of present and future traffic.

(b) The survey and construction work undertaken pursuant to this section shall be under the general supervision of the Secretary.

(Added Pub. L. 93-87, title I, § 127(a)(1), Aug. 13, 1973, 87 Stat. 264, and amended Pub. L. 94-147, Dec. 12, 1975, 89 Stat. 803.)

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 94-147 eliminated provision requiring that the right-of-way granted by the Canadian Government shall forever be held inviolate as part of such highways in public use.

ALASKAN ROADS STUDY; INVESTIGATION; REPORT TO CONGRESS

Pub. L. 94-280, title I, § 151, May 5, 1976, 90 Stat. 448, provided that:

"(a) The Secretary of Transportation is authorized to undertake an investigation and study to determine the cost of, and the responsibility for, repairing the damage to Alaska highways that has been or will be caused by heavy truck traffic during construction of the trans-Alaska pipeline and to restore them to proper standards when construction is complete. The Secretary of Transportation shall report his initial findings to the Congress on or before September 30, 1976, and his final conclusions on rebuilding costs no later than three months after completion of pipeline construction.

"(b) There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to be available until expended, the sum of $200,000 for the purpose of making the study authorized by subsection (a) of this section."

APPROPRIATIONS AUTHORIZATION

Section 127(b) of Pub. L. 93-87 provided that: "For the purpose of completing necessary reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border there is authorized to be appropriated the sum of $58,670,000 to be expended in accordance with the provisions of section 218 of title 23 of the United States Code."

§ 219. Safer off-system roads

(a) The Secretary is authorized to make grants to States for projects for the construction, reconstruction, and improvement of any off-system road, including, but not limited to, the correction of safety hazards, the replacement of bridges, the elimination of high-hazard locations and roadside obstacles.

(b) On October 1 of each fiscal year the Secretary shall apportion the sums authorized to be appropriated to carry out this section among the several States as follows:

(1) Two-thirds according to the following formula—

(A) one-third in the ratio which the area of each State bears to the total area of all States;

(B) one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States; and

(C) one-third in the ratio in which the off-system road mileage of each State bears to the total off-system road mileage of all the States. Off-system road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary.

(2) One-third in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census.

(c) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis.

(d) In any State wherein the State is without legal authority to construct or maintain a project under this section, such State shall enter into a formal agreement for such construction or maintenance with the appropriate local officials of the county or municipality in which such project is located.

(e) Sums apportioned under this section and programs and projects under this section shall be subject to all of the provisions of chapter 1 of this title applicable to highways on the Federal-aid secondary system except the formula for apportionment, the requirement that these roads be on the Federal-aid system, and those other provisions determined by the Secretary to be inconsistent with this section. The Secretary is not authorized to determine as inconsistent with this section any provision relating to the obligation and availability of funds.

(f) As used in this section, the terms "off-system road" means any toll-free road (including bridges), which road is not on any Federal-aid system and which is under the jurisdiction of and maintained by a public authority and open to public travel.

(Added Pub. L. 93-643, § 122(a), Jan. 4, 1975, 88 Stat. 2289, and amended Pub. L. 94-280, title I, § 135(a), May 5, 1976, 90 Stat. 441).

AMENDMENTS

1976—Catchline. Pub. L. 94-280 substituted "Safer off-system roads" for "Off-system roads".

Subsec. (a). Pub. L. 94-280 authorized project grants for correction of safety hazards, deleted opening and closing parentheses preceding and following "including" and "obstacles", and deleted the comma following "high-hazard locations".

Subsec. (b). Pub. L. 94-280 designated existing provisions as par. (1), inserted introductory words "Two-thirds according to the following formula—", redesignated as items (A), (B), and (C) former items (1), (2), and (3), and added par. (2).

Subsec. (c). Pub. L. 94-280 substituted "obligation throughout such State" for "expenditures in the counties of such State".

Subsec. (d). Pub. L. 94-280 added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 94-280 redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 94-280 redesignated former subsec. (e) as (f), substituted "terms" for "term", and deleted "in a rural area" following "(including bridges)".

CHAPTER 3—GENERAL PROVISIONS

Sec.
301. Freedom from tolls.
302. State highway department.
303. Bureau organization.[1]
304. Participation by small business enterprises.
305. Archeological and paleontological salvage.
306. Mapping.
307. Research and planning.
308. Cooperation with Federal and State agencies and foreign countries.
309. Cooperation with other American Republics.
310. Civil Defense
311. Highway improvements strategically important to the national defense.
312. Detail of Army, Navy, and Air Force officers.
[313. Repealed.]
314. Relief of employees in hazardous work.
315. Rules, regulations, and recommendations.
316. Consent by United States to conveyance of property.
317. Appropriation for highway purposes of lands or interests in lands owned by the United States.
318. Highway relocation due to airport.
319. Landscaping and scenic enhancement.
320. Bridges on Federal dams.
321. National Highway Institute.
322. Demonstration project—rail crossings.
323. Donations.
324. Prohibition of discrimination on the basis of sex.

AMENDMENTS

1973—Pub. L. 93-87, title I, §§ 145(b), 162(b), Aug. 13, 1973, 87 Stat. 273, 280, added items 323 and 324.

1970—Pub. L. 91-605, title I, § 115(b), title II, § 205(b), Dec. 31, 1970, 84 Stat. 1723, 1743, added items 321 and 322.

1966—Pub. L. 89-564, title I, § 102(b)(2), Sept. 9, 1966, 80 Stat. 735, deleted item 313 relating to Highway Safety Conference.

[1] So in original. Does not conform to section catchline.

1965—Pub. L. 89-285, title III, § 301(b), Oct. 22, 1965, 79 Stat. 1032, added "and scenic enhancement" following "Landscaping" in item 319.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 103 of this title.

§ 301. Freedom from tolls

Except as provided in section 129 of this title with respect to certain toll bridges and toll tunnels, all highways constructed under the provisions of this title shall be free from tolls of all kinds.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 912.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 129 of this title.

§ 302. State highway department

(a) Any State desiring to avail itself of the provisions of this title shall have a State highway department which shall have adequate powers, and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title. Among other things, the organization shall include a secondary road unit. In meeting the provisions of this subsection, a State may engage, to the extent necessary or desirable, the services of private engineering firms.

(b) The State highway department may arrange with a county or group of counties for competent highway engineering personnel suitably organized and equipped to the satisfaction of the State highway department, to supervise construction and maintenance on a county-unit or group-unit basis, for the construction of projects on the Federal-aid secondary system, financed with secondary funds, and for the maintenance thereof.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 912; Pub. L. 89-574, § 11, Sept. 13, 1966, 80 Stat. 770.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-574 authorized States, in meeting the provisions of this subsection, to engage, to the extent necessary or desirable, the services of private engineering firms.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 303. Administration organization

(a)(1) In addition to the Administrator of the Federal Highway Administration authorized by section 3(e) of the Department of Transportation Act, there shall be a Deputy Federal Highway Adminstrator appointed by the Secretary of Transportation with the approval of the President. The Deputy Federal Highway Administrator shall perform such duties as the Federal Highway Adminstrator shall prescribe. There shall also be an Assistant Federal Highway Administrator who shall be the chief engineer of the Administration and shall be appointed, with the approval of the President, by the Secretary of Transportation under the classified civil service and who shall perform such functions, powers, and duties as the Federal Highway Administrator shall prescribe.

(2) The Administrator of the Federal Highway Administration shall be compensated at the annual rate of basic pay of level II of the Executive Schedule in section 5313 of title 5, United States Code. The Deputy Federal Highway Administrator shall be compensated at the annual rate of basic pay of level IV of the Executive Schedule in section 5315 of title 5, United States Code. The Assistant Federal Highway Administrator shall be compensated at the annual rate of basic pay of level V of the Executive Schedule in section 5316 of title 5, United States Code.

(b) The Secretary is authorized to employ such assistants, clerks and other persons in the city of Washington and elsewhere, to be taken from the eligible lists of the Civil Service Commission, to rent buildings outside of the city of Washington, to purchase such supplies, material, equipment, office fixtures and apparatus, to advertise in the city of Washington for work to be performed in areas adjacent thereto, and to incur, and authorize the incurring of, such travel and other expenses as he may deem necessary for carrying out the functions under this title.

(c) The Secretary is authorized to procure temporary services in accordance with the provisions of section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), but at rates for individuals not in excess of $100 per diem.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 912; Pub. L. 87-392, § 1, Oct. 4, 1961, 75 Stat. 822; Pub. L. 88-426, title III, § 305(24), Aug. 14, 1964, 78 Stat. 425; Pub. L. 91-605, title I, § 114(a), Dec. 31, 1970, 84 Stat. 1722; Pub. L. 93-87, title I, § 152(4), Aug. 13, 1973, 87 Stat. 276.)

REFERENCES IN TEXT

The Department of Transportation Act, referred to in subsec. (a), is Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931 and is classified principally to chapter 23 (§ 1651 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Short Title note set out under section 1651 of Title 49 and Tables volume. Section 3(e) of the Department of Transportation Act is section 1652(e) of Title 49.

Section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), referred to in subsec. (c), was repealed and the provisions thereof reenacted as section 3109 of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1973—Pub. L. 93-87 substituted "Administration organization" for "Bureau organization" in the section heading.

1970—Subsec. (a), Pub. L. 91-605 substituted reference to the Administrator of the Federal Highway Administration as authorized by section 3(e) of the Department of Transportation Act [section 1652(e) of Title 49, Transportation], for reference to a Federal Highway Administrator of the Bureau of Public Roads in the Department of Commerce, appointed by the President with the advice and consent of the Senate, authorized the Deputy Federal Highway Administrator to be appointed by the Secretary of Transportation rather than by the Secretary of Commerce, and further authorized the approval of the President in such appointment, provided for an Assistant Federal Highway Administrator to be appointed by the Secretary of Transportation with the approval of the President, and provided for the compensation of the Administrator, the Deputy Administrator, and the Assistant Administrator by reference to the Executive Schedule.

1964—Subsec. (a). Pub. L. 88-426 repealed provisions which prescribed the compensation of the Administrator and the Deputy Administrator.

1961—Subsec. (a). Pub. L. 87-392 substituted the position of Deputy Federal Highway Administrator for that of the Commissioner of Public Roads, and set his salary at a rate $1,000 less than the rate for the Federal Highway Administrator.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426, see section 501 of Pub. L. 88-426.

RETROACTIVE EFFECT

Section 114(b) of Pub. L. 91-605 provided that: "All provisions of law enacted before the date of enactment of this Act [Dec. 31, 1970] which are inconsistent with the amendment made by subsection (a) of this section [amending subsec. (a) of this section] are hereby repealed to the extent of such inconsistency."

PRESIDENTIAL AUTHORIZATION OF ACTING DEPUTY ADMINISTRATOR; COMPENSATION

Section 114(c) of Pub. L. 91-605 provided that: "The President may authorize any person who immediately before the date of enactment of this Act [Dec. 31, 1970] held the office of Director of Public Roads to act as Deputy Administrator of the Federal Highway Administration created by the amendment made by subsection (a) of this section [amending subsec. (a) of this section] until the first Deputy Administrator is appointed in accordance with such amendment. The President may authorize any person acting as Deputy Administrator in accordance with this subsection to receive compensation at the rate authorized for the Office of Deputy Administrator. Such compensation, if authorized, shall be in lieu of, and not in addition to, any other compensation from the United States to which such person may be entitled."

TRANSFER OF OFFICE OF FEDERAL HIGHWAY ADMINISTRATOR AND CONTINUATION UNDER TITLE OF DIRECTOR OF PUBLIC ROADS

Transfer of office of Federal Highway Administrator to and continuation within Department of Transportation under the title Director of Public Roads, see section 1652(f)(4) of Title 49, Transportation.

COMMISSIONER OF PUBLIC ROADS DEEMED TO MEAN FEDERAL HIGHWAY ADMINISTRATOR

Act Aug. 3, 1956, ch. 937, § 2, 70 Stat. 990, provided that: "The term 'Commissioner of Public Roads', as used in all laws, orders, and regulations, shall be deemed to mean 'Federal Highway Administrator' on and after August 3, 1956."

COMPENSATION FOR FEDERAL HIGHWAY ADMINISTRATOR

Pub. L. 89-564, title II § 205, Sept. 9, 1966, 80 Stat. 736, providing for the compensation at the rate prescribed for level IV of the Federal Executive Salary Schedule established by the Federal Executive Salary Act of 1964, was repealed by Pub. L. 90-83, § 10(b), Sept. 11, 1967, 81 Stat. 224. See section 5316 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1652.

§ 304. Participation by small business enterprises

It is declared to be in the national interest to encourage and develop the actual and potential capacity of small business and to utilize this important segment of our economy to the fullest practicable extent in construction of the Federal-aid highway systems, including the Interstate System. In order to carry out that intent and encourage full and free competition, the Secretary should assist, insofar as feasible, small business enterprises in obtaining contracts in connection with the prosecution of the highway program.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 913.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 305. Archeological and paleontological salvage

Funds authorized to be appropriated to carry out this title to the extent approved as necessary by the highway department of any State, may be used for archeological and paleontological salvage in that State in compliance with the Act entitled "An Act for the preservation of American antiquities", approved June 8, 1906 (34 Stat. 225), and State laws where applicable.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 913; Pub. L. 86-657, § 8(e), July 14, 1960, 74 Stat. 525.)

REFERENCES IN TEXT

An Act for the preservation of American antiquities, referred to in text, is act June 8, 1906, ch. 3060, 34 Stat. 225, which enacted sections 431, 432, and 433 of Title 16, Conservation. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1960—Pub. L. 86-657 substituted "appropriated to carry out this title to the extent approved" for "appropriated under the Federal-Aid Highway Act of 1956, to the extent approved".

§ 306. Mapping

In carrying out the provisions of this title, the Secretary may, wherever practicable, authorize the use of photogrammetric methods in mapping, and the utilization of commercial enterprise for such services.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 913.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 307. Research and planning

(a) The Secretary is authorized in his discretion to engage in research on all phases of highway construction, modernization, development, design, maintenance, safety, financing, and traffic conditions, including the effect thereon of State laws and is authorized to test, develop, or assist in the testing and developing of any material, invention, patented article, or process. The Secretary may publish the results of such research. The Secretary may carry out the authority granted hereby, either independently, or in cooperation with any other branch of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization, or person. The Secretary is also authorized, acting independently or in cooperation with other Federal departments, agencies, or instrumentalities, to make grants for research fellowships for any purpose for which research is otherwise authorized by this section. The funds required to

carry out the provisions of this subsection shall be taken out of the administrative and research funds authorized by section 104 of this title, funds authorized to carry out section 403 of this title, and such funds as may be deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating organization or person. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts or agreements made under the authority of this subsection.

(b) The Secretary shall include in the highway research program herein authorized studies of economic highway geometrics, structures, and desirable weight and size standards for vehicles using the public highways and of the feasibility of uniformity in State regulations with respect to such standards and he shall report from time to time to the Committees on Public Works of the Senate and of the House of Representatives on the progress and findings with respect to such studies. The highway research program herein authorized shall also include studies to identify and measure, quantitatively and qualitatively, those factors which relate to economic, social, environmental, and other impacts of highway projects.

(c)(1) Not to exceed 1½ per centum of the sums apportioned for each fiscal year beginning with fiscal year 1974 to any State under section 104 of this title shall be available for expenditure upon request of the State highway department, with the approval of the Secretary, with or without State funds, for engineering and economic surveys and investigations; for the planning of future highway programs and local public transportation systems and for planning for the financing thereof; for studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof; and for research and development, necessary in connection with the planning, design, construction, and maintenance of highways and highway systems, and the regulation and taxation of their use.

(2) One and one-half per centum of the sums apportioned for each fiscal year beginning with the fiscal year 1964 to any State under section 104 of this title shall be available for expenditure by the State highway department only for the purposes enumerated in paragraph (1) of this subsection.

(3) In addition to the percentage provided in paragraph (2) of this subsection, not to exceed one-half of one per centum of sums apportioned for each fiscal year beginning with the fiscal year 1964 under paragraphs (1), (2), and (3) of section 104(b) of this title shall be available for expenditure upon request of the State highway department for the purposes enumerated in paragraph (1) of this subsection, including demonstration projects in connection with such purposes.

(4) Sums made available under paragraphs (2) and (3) of this subsection shall be matched by the State in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

(d) As used in this section the term "safety" includes, but is not limited to, highway safety systems, research and development relating to vehicle, highway, and driver characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 913; Pub. L. 87-866, § 11, Oct. 23, 1962, 76 Stat. 1148; Pub. L. 88-157, § 6, Oct. 24, 1963, 77 Stat. 277; Pub. L. 89-564, title I, § 103, Sept. 9, 1966, 80 Stat. 735; Pub. L. 91-605, title I, §§ 115(c), 126, 136(c), Dec. 31, 1970, 84 Stat. 1723, 1729, 1735; Pub. L. 93-87, title I, § 151, Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Subsec. (c)(1). Pub. L. 93-87 substituted "fiscal year beginning with fiscal year 1974" for "fiscal year prior to the fiscal year 1964".

1970—Subsec. (a). Pub. L. 91-605, § 115(c), authorized Secretary to make grants for research fellowships for any purpose for which research is otherwise authorized by this section.

Subsec. (b). Pub. L. 91-605, § 136(c), authorized the highway research program to include studies to identify and measure, quantitatively and qualitatively, those factors which relate to economic, social, environmental, and other impacts of highway projects.

Subsec. (c)(3). Pub. L. 91-605, § 126, authorized percentage of appropriation for demonstration projects in connection with the purposes enumerated in par. (1) of this subsection.

1966—Subsec. (a). Pub. L. 89-564, § 103(1), inserted, ", funds authorized to carry out section 403 of this title," immediately following "section 104 of this title".

Subsec. (d). Pub. L. 89-564, § 103(2), added subsec. (d).

1963—Subsec. (c)(1). Pub. L. 88-157 authorized development expenditures.

1962—Subsec. (c). Pub. L. 87-866 designated existing provisions as par. (1), substituted "each fiscal year prior to the fiscal year 1964" for "any year" in such par. (1) and added pars. (2) to (4).

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

HIGHWAY LITTER STUDY; REPORT TO CONGRESS; FUNDS AUTHORIZATION

Section 155 of Pub. L. 93-87 authorized a study by the Secretary of litter accumulation within rights-of-way of Federal-aid highway systems, such study, including recommendations for improved procedures for litter prevention, to be reported to Congress by June 30, 1974.

AUTHORIZATION OF ADDITIONAL APPROPRIATIONS

Section 105 of Pub. L. 89-564 authorized to be appropriated the additional sum of $10,000,000 for the fiscal year ending June 30, 1967, $20,000,000 for the fiscal year ending June 30, 1968, and $25,000,000 for the fiscal year ending June 30, 1969 for the purpose of carrying out sections 307(a) and 403 of this title.

AVAILABILITY OF REPORTS OF RESEARCH PRODUCTS TO THE PUBLIC

Completed reports on research projects, demonstration projects, and other related activities conducted under this section and section 403 of this title to be made available to the public in a manner which does not identify individuals, see section 106 of Pub. L. 89-564, set out as a note under section 403 of this title.

STUDY OF RELATIONSHIP OF HIGHWAY CONSTRUCTION TO PUBLIC TRANSPORTATION SERVICES; REPORT TO CONGRESS

Section 144 of Pub. L. 91-605 directed the Secretary to undertake a study and analysis of the use of exist-

ing highway facilities for highway public transportation service, the need for additional highway facilities or the adjustment of existing facilities to accommodate such service, and the appropriate funding of such additional highway facilities and to report to the Congress his findings and recommendations not later than Jan. 1, 1972.

ALASKA HIGHWAY

Section 119 of Pub. L. 91-605 provided that:

"(a) The President, acting through the Secretaries of State and Transportation, is authorized to undertake negotiations with the Government of Canada for the purpose of entering into a suitable agreement authorizing paving and reconstructing the Alaska Highway from Dawson Creek, Canada (including a connecting highway to Haines, Alaska), to the Alaska border, including, but not limited to, necessary highway realinement.

"(b) The President shall report to Congress not later than one year after the date of enactment of this section [Dec. 31, 1970] the results of his negotiations under this section."

ALASKA HIGHWAY STUDY

Section 13 of Pub. L. 87-866 provided that:

"(a) The Secretary of Commerce, in cooperation with the State of Alaska, is hereby authorized to make engineering studies and estimates and planning surveys relative to a highway construction program for the State of Alaska, and, in accordance with treaties or other agreements to be negotiated with Canada by the Secretary of State in consultation with the Secretary of Commerce, engineering studies, estimates, and planning surveys relative to connecting Alaskan roads with Canadian roads at the International boundary.

"(b) On or before May 15, 1964, the Secretary of Commerce shall submit a report to the Congress which shall include—

"(1) an analysis of the adequacy of the Federal-aid highway program to provide for a satisfactory program in both the populated and the undeveloped areas in Alaska;

"(2) specific recommendations as to the construction of roads through undeveloped areas of Alaska and connection of such roads with Canadian roads at the International boundary; and

"(3) a feasible program for implementing such specific recommendations, including cost estimates, recommendations as to the sharing of cost responsibilities, and other pertinent matters.

"(c) From time to time, either before or after submission of the report provided for in subsection (b) of this section, the Secretary of Commerce may submit recommendations to the Congress with respect to the construction of particular highways to carry out the purposes of this section.

"(d) Nothing in this section shall be construed as creating any obligation in the Congress, express or implied, to carry out the recommendations referred to in subsections (b) and (c).

"(e) There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to be available until expended, the sum of $800,000 for the purpose of making the studies, surveys, and report authorized by subsections (a) and (b) hereof."

NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAY MILEAGE STUDY FOR ALASKA AND HAWAII

Pub. L. 86-342, title I, § 105, Sept. 21, 1959, 73 Stat. 612, directed the Secretary of Commerce to make a study of the need for the extension of the National System of Interstate and Defense Highways within the States of Alaska and Hawaii, and report the results of such study to the Congress within ten days subsequent to January 4, 1960. The report was required to include recommendations as to the approximate routes and mileages thereof which should be included in such system within those States.

INVESTIGATION AND REPORT TO ASSURE AN EQUITABLE DISTRIBUTION OF THE TAX BURDEN

Section 210 of act June 29, 1956, ch. 462, title II, 70 Stat. 401, as amended by Pub. L. 85-823, § 1, Aug. 28, 1958, 72 Stat. 983, directed the Secretary of Commerce, in cooperation with other Federal officers and agencies (particularly the Interstate Commerce Commission) and with the State highway departments, to make a study and investigation of—

(1) the effects on design, construction, and maintenance of Federal-aid highways of (A) the use of vehicles of different dimensions, weights, and other specifications, and (B) the frequency of occurrences of such vehicles in the traffic stream,

(2) the proportionate share of the design, construction, and maintenance costs of the Federal-aid highways attributable to each class of persons using such highways, such proportionate share to be based on the effects referred to in paragraph (1) and the benefits derived from the use of such highways, and

(3) any direct and indirect benefits accruing to any class which derives benefits from Federal-aid highways, in addition to benefits from actual use of such highways, which are attributable to public expenditures for such highways and required the final report to be made no later than January 3, 1961.

TESTS TO DETERMINE MAXIMUM DESIRABLE DIMENSIONS AND WEIGHTS FOR VEHICLES

Section 108(k) of act June 29, 1956, ch. 462, title I, 70 Stat. 381, as amended by Pub. L. 85-823, § 2, Aug. 28, 1958, 72 Stat. 983, directed the Secretary of Commerce to take all action possible to expedite the conduct of a series of tests planned or conducted by the Highway Research Board of the National Academy of Sciences, in cooperation with the Bureau of Public Roads, the several States, and other persons and organizations, for the purpose of determining the maximum desirable dimensions and weights for vehicles operated on the Federal-aid highway systems, including the Interstate System, and, after the conclusion of such tests, but not later than January 3, 1961, to make recommendations to the Congress with respect to such maximum desirable dimensions and weights.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 116, 322, 403 of this title.

§ 308. Cooperation with Federal and State agencies and foreign countries

(a) The Secretary is authorized to perform by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Government agencies, cooperating foreign countries, and State cooperating agencies, and reimbursement for such services, which may include depreciation on engineering and roadbuilding equipment used, shall be credited to the appropriation concerned.

(b) Appropriations for the work of the Federal Highway Administration shall be available for expenses of warehouse maintenance and the procurement, care, and handling of supplies, materials, and equipment for distribution of projects under the supervision of the Federal Highway Administration, or for sale or distribution to other Government agencies, cooperating foreign countries, and State cooperating agencies, and the cost of such supplies and materials or the value of such equipment, including the cost of transportation and handling, may be reimbursed to current applicable appropriations.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 914; Pub. L. 93-87, title I, § 152(5), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93-87 substituted "Federal Highway Administration" for "Bureau of Public Roads" in two instances.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 309. Cooperation with other American Republics

The President is authorized to utilize the services of the Federal Highway Administration in fulfilling the obligations of the United States under the Convention on the Pan-American Highway Between the United States and Other American Republics (51 Stat. 152), cooperating with several governments, members of the Organization of American States, in connection with the survey and construction of the Inter-American Highway, and for performing engineering service in the other American Republics for and upon the request of any agency or governmental corporation of the United States. To the extent authorized in appropriation acts, administrative funds available in accordance with subsection (a) of section 104 of this title shall be available annually for the purpose of this section.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 914; Pub. L. 93-87, title I, § 152(5), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Pub. L. 93-87 substituted "Federal Highway Administration" for "Bureau of Public Roads".

§ 310. Civil defense

In order to assure that adequate consideration is given to civil defense aspects in the planning and construction of highways constructed or reconstructed with the aid of Federal funds, the Secretary of Transportation is authorized and directed to consult, from time to time, with the Federal Civil Defense Administrator relative to the civil defense aspects of highways so constructed or reconstructed.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 914; Pub. L. 93-87, title I, § 152(3), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Pub. L. 93-87 substituted "Secretary of Transportation" for "Secretary of Commerce".

TRANSFER OF FUNCTIONS

The office of the Federal Civil Defense Administrator, referred to in text, was abolished and the functions thereof were transferred to the President by Reorg. Plan No. 1 of 1958 set out as a note under section 2271 of Title 50 App., War and National Defense. The Plan also established a new agency in the Executive Office of the President, known as the Office of Defense and Civilian Mobilization to be headed by a Director. The Office was redesignated as the Office of Civil and Defense Mobilization by act Aug. 26, 1958 (72 Stat. 861). Civil defense functions transferred to Secretary of Defense by Executive Order No. 10952 of July 20, 1961 set out as a note under section 2271 of Title 50 App., and remaining functions redesignated Office of Emergency Planning by act Sept. 22, 1961 (75 Stat. 630; 50 U.S.C. App. 2271 note). The Office was redesignated the Office of Emergency Preparedness by act Oct. 21, 1968 (82 Stat. 1194; 50 U.S.C. App. 2271 note). The Office of Emergency Preparedness including the office of Director was abolished and the functions thereof were transferred to the President by Reorg. Plan No. 1 of 1973, set out as a note under section 2271 of Title 50 App.

§ 311. Highway improvements strategically important to the national defense

Funds made available under subsection (a) of section 104 of this title may be used to pay the entire engineering costs of the surveys, plans, specifications, estimates, and supervision of construction of projects for such urgent improvements of highways strategically important from the standpoint of the national defense as may be undertaken on the order of the Secretary and as the result of request of the Secretary of Defense or such other official as the President may designate. With the consent of a State, funds made available under subsection (b) of section 104 of this title may be used to the extent deemed necessary and advisable by the Secretary to carry out the provisions of this section.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 312. Detail of Army, Navy, and Air Force officers

The Secretary of Defense, upon request of the Secretary, is authorized to make temporary details to the Federal Highway Administration of officers of the Army, the Navy, and the Air Force, without additional compensation, for technical advice and for consultation regarding highway needs for the national defense. Travel and subsistence expenses of officers so detailed shall be paid from appropriations available to the Department of Transportation on the same basis as authorized by law and by regulations of the Department of Defense for such officers.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 93-87, title I, § 152(5), (6), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Pub. L. 93-87 substituted "Federal Highway Administration" for "Bureau of Public Roads" and "Department of Transportation" for "Department of Commerce".

[§ 313. Repealed. Pub. L. 89-564, title I, § 102(a), Sept. 9, 1966, 80 Stat. 734]

Section, Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915, authorized the Secretary to cooperate with state highway departments and other agencies in the promotion of highway safety and authorized the expenditure of $150,000 out of the administrative funds made available in accordance with section 104(a) of this title for the purposes of this section. See section 401 et seq. of this title.

REGISTER OF REVOCATIONS OF MOTOR VEHICLE OPERATOR'S LICENSES

Pub. L. 86-660, July 14, 1960, 74 Stat. 526, as amended by Pub. L. 87-359, Oct. 4, 1961, 75 Stat. 779; Pub. L. 89-563, title IV, § 401, Sept. 9, 1966, 80 Stat. 730, provided:

"That the Secretary of Commerce shall establish and maintain a register indentifying each individual reported to him by a State, or political subdivision thereof, as an individual with respect to whom such State or political subdivision has denied, terminated, or temporarily withdrawn (except a withdrawal for less than six months based on a series of nonmoving violations) an individual's license or privilege to operate a motor vehicle.

"SEC. 2. Only at the request of a State, a political subdivision thereof, or a Federal department or agency, shall the Secretary furnish information contained in the register established under the first section of this Act, and such information shall be furnished only to the requesting party and only with respect to an individual applicant for a motor vehicle operator's license or permit.

"SEC. 3. As used in this Act, the term 'State' includes each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Canal Zone, and American Samoa."

INTERSTATE COMPACTS FOR HIGHWAY SAFETY

Pub. L. 85-684, Aug. 20, 1958, 72 Stat. 635, as amended by Pub. L. 88-466, Aug. 20 1964, 78 Stat. 564, provided:

"That the consent of Congress is hereby given to any two or more or the several States, and one or more of the several States and the District of Columbia, to enter into agreements or compacts—

"(1) for cooperative effort and mutual assistance in the establishment and carrying out of traffic safety programs, including, but not limited to, the enactment of uniform traffic laws, driver education and training, coordination of traffic law enforcement, research into safe automobile and highway design, and research programs of the human factors affecting traffic safety, and

"(2) for the establishment of such agencies, joint or otherwise, as they deem desirable for the establishment and carrying out of such traffic safety programs."

EXECUTIVE ORDER NO. 10858

Ex. Ord. No. 10858, Jan. 13, 1960, 25 F.R. 373, as amended by Ex. Ord. No. 10968, Oct. 10, 1961, 26 F.R. 9667, formerly set out as a note under this section which established the President's Committee for Traffic Safety, was revoked by section 16 of Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, set out as a note under section 1652 of Title 49, Transportation.

EXECUTIVE ORDER NO. 10898

Ex. Ord. No. 10898, Dec. 2, 1960, 25 F.R. 12429, as amended by Ex. Ord. No. 10986, Jan. 12, 1962, 27 F.R. 439; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, formerly set out as a note under this section, which established the Interdepartmental Highway Safety Board, was revoked by Ex. Ord. No. 11515, Mar. 13, 1970, 35 F.R. 4543.

§ 314. Relief of employees in hazardous work

The Secretary is authorized in an emergency to use appropriations to the Department of Transportation for carrying out the provisions of this title for medical supplies, services, and other assistance necessary for the immediate relief of employees of the Federal Highway Administration engaged in hazardous work.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 93-87, title I, § 152(5), (6), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Pub. L. 93-87 substituted "Department of Transportation" for "Department of Commerce" and "Federal Highway Administration" for "Bureau of Public Roads".

§ 315. Rules, regulations, and recommendations

Except as provided in sections 204(d), 205(a), 206(b), 207(b), and 208(c) of this title, the Secretary is authorized to prescribe and promulgate all needful rules and regulations for the carrying out of the provisions of this title. The Secretary may make such recommendations to the Congress and State highway departments as he deems necessary for preserving and protecting the highways and insuring the safety of traffic thereon.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 316. Consent by United States to conveyance of property

For the purposes of this title the consent of the United States is given to any railroad or canal company to convey to the State highway department of any State, or its nominee, any part of its right-of-way or other property in that State acquired by grant from the United States.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915.)

§ 317. Appropriation for highway purposes of lands or interests in lands owned by the United States

(a) If the Secretary determines that any part of the lands or interests in lands owned by the United States is reasonably necessary for the right-of-way of any highway, or as a source of materials for the construction or maintenance of any such highway adjacent to such lands or interests in lands, the Secretary shall file with the Secretary of the Department supervising the administration of such lands or interests in lands a map showing the portion of such lands or interests in lands which it is desired to appropriate.

(b) If within a period of four months after such filing, the Secretary of such Department shall not have certified to the Secretary that the proposed appropriation of such land or material is contrary to the public interest or inconsistent with the purposes for which such land or materials have been reserved, or shall have agreed to the appropriation and transfer under conditions which he deems necessary for the adequate protection and utilization of the reserve, then such land and materials may be appropriated and transferred to the State highway department, or its nominee, for such purposes and subject to the conditions so specified.

(c) If at any time the need for any such lands or materials for such purposes shall no longer exist, notice of the fact shall be given by the State highway department to the Secretary and such lands or materials shall immediately revert to the control of the Secretary of the Department from which they had been appropriated.

(d) The provisions of this section shall apply only to projects constructed on a Federal-aid system or under the provisions of chapter 2 of this title.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 916.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 318. Highway relocation due to airport

Federal highway funds shall not be used for the reconstruction or relocation of any highway giving access to an airport constructed or extended after December 20, 1944, or for the reconstruction or relocation of any highway which has been or may be closed or the usefulness of which has been may be impaired by the location or construction of any airport constructed or extended after December 20, 1944, unless, prior to such construction or extension as the case may be, the State highway department and the Secretary have concurred with the officials in charge of the airport that the location of such airport or extension thereof and the consequent reconstruction or relocation of the highway are in the public interest.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 916.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

§ 319. Landscaping and scenic enhancement

The Secretary may approve as a part of the construction of Federal-aid highways the costs of landscape and roadside development, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities reasonably necessary to accommodate the traveling public, and for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to such highways.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 916; Pub. L. 89-285, title III, § 301(a), Oct. 22, 1965, 79 Stat. 1032; Pub. L. 89-574, § 8(b), Sept. 13, 1966, 80 Stat. 768; Pub. L. 90-495, § 6(f), Aug. 23, 1968, 82 Stat. 818; Pub. L. 94-280, title I, § 136(a), May 5, 1976, 90 Stat. 442.)

AMENDMENTS

1976—Pub. L. 94-280, in revising the section, deleted subsec. (a) designation for existing text; incorporated as part of the section provision of former subsec. (b) for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to Federal-aid highways; and deleted subsec. (b) designation and other subsec. (b) provisions relating to: allocation to a State out of appropriated funds an amount equivalent to 3 per centum of funds apportioned to a State for Federal-aid highways for landscape and roadside development use within the highway right-of-way, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities within or adjacent to the highway right-of-way without being matched by the State; authorization of Secretary to except a State from the requirement upon a showing that amount is in excess of the State needs for the purposes; lapse of unused funds; appropriations authorization of $120,000,000 for fiscal years ending June 30, 1966, and 1967, and $20,000,000 for fiscal year ending June 30, 1970; and provision making chapter 1 respecting obligation, period of availability, and expenditure of Federal-aid primary highway funds applicable to funds authorized to be appropriated to carry out subsec. (b) after June 30, 1967.

1968—Subsec. (b). Pub. L. 90-495 added provisions authorizing an appropriation of not to exceed $20,000,000 for the fiscal year ending June 30, 1970.

1966—Subsec. (b). Pub. L. 89-574, substituted provisions making applicable to the funds authorized to be appropriated to carry out this subsection after June 30, 1967, the provisions of chapter 1 of this title relating to the obligations, period of availability, and expenditure of Federal-aid primary highway funds for provisions prohibiting the use of any part of the Highway Trust Fund in carrying out this subsection.

1965—Pub. L. 89-285 rearranged the section structurally, made provision for apportionment of an amount, in addition to the state's annual apportionment, equivalent to 3 per centum of the fund annually apportioned to the state for federal-aid highways to acquire interests and improvements for restoration, preservation, and enhancement of scenic beauty adjacent to Federal-aid highways, authorized appropriations of $120,000,000 for fiscal year ending June 30, 1966, and $120,000,000 for fiscal year ending June 30, 1967, and prohibited use of Highway Trust Fund moneys in carrying out the scenic enhancement provisions.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective August 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

CONTINUING AVAILABILITY OF APPROPRIATED FUNDS FOR APPROPRIATION, OBLIGATION, AND EXPENDITURE

Section 136(b) of Pub. L. 94-280 provided that: "All sums authorized to be appropriated to carry out section 319(b) of title 23, United States Code [former subsec. (b) of this section], as in effect immediately before the date of enactment of this section [May 5, 1976] shall continue to be available for appropriation, obligation, and expenditure in accordance with such section 319(b) [former subsec. (b) of this section], notwithstanding the amendment made by the subsection (a) of this section [to this section]."

NATIONAL SCENIC HIGHWAY SYSTEM STUDY AND USER ACCESS STUDY FOR PARKS AND RECREATION AREAS

Pub. L. 93-87, title I, § 134, Aug. 13, 1973, 87 Stat. 268, mandated a study to determine the feasibility of a scenic highway system to link together recreational, historical sites, and a study of user access to parks and recreational areas, including alternatives to private automobiles, the results of the studies to be reported to Congress no later than July 1, 1974, and Jan. 1, 1975, respectively.

ACQUISITION OF DWELLINGS

Prohibition against the use of eminent domain to acquire any dwelling (including related buildings) under the terms of Pub. L. 89-285, see section 305 of Pub. L. 89-285, set out as a note under section 131 of this title.

TAKING OF PRIVATE PROPERTY WITHOUT JUST COMPENSATION

Prohibition against the taking of private property or the restriction of reasonable and existing use by such taking without just compensation under the terms of Pub. L. 89-285, see section 401 of Pub. L. 89-285, set out as a note under section 131 of this title.

§ 320. Bridges on Federal dams

(a) Each executive department, independent establishment, office, board, bureau, commission, authority, administration, corporation wholly owned or controlled by the United States, or other agency of the Government of

the United States, hereinafter collectively and individually referred to as "agency", which on or after July 29, 1946, has jurisdiction over and custody of any dam constructed or to be constructed and owned by or for the United States, is authorized, with any funds available to it, to design and construct any such dam in such manner that it will constitute and serve as a suitable and adequate foundation to support a public highway bridge upon and across such dam, and to design and construct upon the foundation thus provided a public highway bridge upon and across such dam. The highway department of the State in which such dam shall be located, jointly with the Secretary, shall first determine and certify to such agency that such bridge is economically desirable and needed as a link in the State or Federal-aid highway systems, and shall request such agency to design and construct such dam so that it will serve as a suitable and adequate foundation for a public highway bridge and to design and construct such public highway bridge upon and across such dam, and shall agree to reimburse such agency pursuant to subsection (d) of this section for any additional costs which it may be required to incur because of the design and construction of such dam so that it will serve as a foundation for a public highway bridge and for expenditures which it may find it necessary to make in designing and constructing such public highway bridge upon and across such dam. In no case shall the design and construction of a bridge upon and across such dam be undertaken hereunder except by the agency having jurisdiction over and custody of the dam, acting directly or through contractors employed by it, and after such agency shall determine that it will be structurally feasible and will not interfere with the proper functioning and operation of the dam.

(b) Construction of any bridge upon and across any dam pursuant to this section shall not be commenced unless and until the State in which such bridge is to be located, or the appropriate subdivision of such State, shall enter into an agreement with such agency and with the Secretary to construct, or cause to be constructed, with or without the aid of Federal funds, the approach roads necessary to connect such bridge with existing public highways and to maintain, or cause to be maintained, such approach roads from and after their completion. Such agreement may also provide for the design and construction of such bridge upon and across the dam by such agency of the United States and for reimbursing such agency the costs incurred by it in the design and construction of the bridge as provided in subsection (d) of this section. Any such agency is hereby authorized to convey to the State, or to the appropriate subdivision thereof, without costs, such easements and rights-of-way in its custody or over lands of the United States in its custody and control as may be necessary, convenient, or proper for the location, construction, and maintenance of the approach roads referred to in this section including such roadside parks or recreational areas of limited size as may be deemed necessary for the accomodation of the traveling public. Any bridge constructed pursuant to this section upon and across a dam in the custody and jurisdiction of any agency of the United States, including such portion thereof, if any, as may extend beyond the physical limits of the dam, shall constitute and remain a part of said dam and be maintained by the agency. Any such agency may enter into any such contracts and agreements with the State or its subdivisions respecting public use of any bridge so located and constructed as may be deemed appropriate, but no such bridge shall be closed to public use by the agency except in cases of emergency or when deemed necessary in the interest of national security.

(c) All costs and expenses incurred and expenditures made by any agency in the exercise of the powers and authority conferred by this section (but not including any costs, expenses, or expenditures which would have been required in any event to satisfy a legal road or bridge relocation obligation or to meet operating or other agency needs) shall be recorded and kept separate and apart from the other costs, expenses, and expenditures of such agency, and no portion thereof shall be charged or allocated to flood control, navigation, irrigation, fertilizer production, the national defense, the development of power, or other program, purpose, or function of such agency.

(d) Not to exceed $50,000,000 of any money heretofore or hereafter appropriated for expenditure in accordance with the provisions of this title or prior Acts shall be available for expenditure by the Secretary in accordance with the provisions of this section, as an emergency fund, to reimburse any agency for any additional costs or expenditures which it may be required to incur because of the design and construction of any such dam so that it will constitute and serve as a foundation for a public highway bridge upon and across such dam and to reimburse any such agency for any costs, expenses, or expenditures which it may be required to make in designing and constructing any such bridge upon and across a dam in accordance with the provisions of this section, except such costs, expenses, or expenditures as would have been required of such agency in any event to satisfy a legal obligation to relocate a highway or bridge or to meet operating or other agency needs, and there is authorized to be appropriated any sum or sums necessary to reimburse the funds so expended by the Secretary from time to time under the authority of this section. Of each bridge constructed upon and across a dam under the provisions of this section, there may be financed wholly with Federal funds that portion thereof which is located within the physical limits of the masonry structure, or structures, of the dam, and the Secretary shall in his sole discretion determine what additional portion of the bridge, if any, may be so financed, such determination to be final and conclusive. The remainder of the bridge, and any necessary related approach roads, shall be financed by the State or its appropriate subdivision with or without the aid of Federal funds; but said portion of the bridge so financed by the State or its subdivisions, including such portion thereof, if any, as may extend beyond the physical limits of the dam, shall nevertheless be designed and constructed solely

by the agency having custody and jurisdiction of the dam as provided in subsection (a) of this section.

(e) In making, reviewing, or approving the design of any bridge or approach structure to be constructed under this section, the agency shall, in matters relating to roadway design, loadings, clearances and widths, and traffic safeguards, give full consideration to and be guided by the standards and advice of the Secretary.

(f) The authority conferred by this section shall be in addition to and not in limitation of authority conferred upon any agency by any other law, and nothing in this section contained shall affect or be deemed to relate to any bridge approach structure, or highway constructed or to be constructed by any such agency in furtherance of its lawful purposes and requirements or to satisfy a legal obligation incurred independently of this section.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 917; Pub. L. 88-342, title I, § 108, Sept. 21, 1959, 73 Stat. 613; Pub. L. 88-423, § 4(c) Aug. 13, 1964, 78 Stat. 398; Pub. L. 91-605, title I, § 116(a), Dec. 31, 1970, 84 Stat. 1724; Pub. L. 93-87, title I, § 128(a), Aug. 13, 1973, 87 Stat. 265; Pub. L. 93-643, § 123(a), Jan. 4, 1975, 88 Stat. 2290; Pub. L. 94-280, title I, § 137(a), May 5, 1976, 90 Stat. 443.)

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-280 substituted "$50,000,000" for "$27,761,000".

1975—Subsec. (d). Pub. L. 93-643 substituted "$27,761,000" for "$25,261,000".

1973—Subsec. (d). Pub. L. 93-87 substituted "$25,261,000" for "$16,761,000".

1970—Subsec. (d). Pub. L. 91-605 substituted "$16,761,000" for "$13,000,000".

1964—Subsec. (b). Pub. L. 88-423 substituted "which such bridge is to be located, or the appropriate subdivision of such State, shall enter into an agreement with such agency and with" for "such State, shall enter into an agreement with such agency and with which such bridge is to be located, or the appropriate subdivision of".

1959—Subsec. (d). Pub. L. 86-342 substituted "$13,000,000" for "$10,000,000".

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

APPROPRIATION OF INCREASED AUTHORIZATION

Section 137(b) of Pub. L. 94-280 provided that: "Sums appropriated or expended under authority of the increased authorization established by the amendment made by subsection (a) of this section [to subsec. (d) of this section] shall be appropriated out of the Highway Trust Fund for the fiscal year ending September 30, 1977, and for subsequent fiscal years."

RESTRICTION ON INCREASED AUTHORIZATION OF APPROPRIATIONS

Section 116(b) of Pub. L. 91-605 provided that: "All sums appropriated under authority of the increased authorization of $3,761,000 established by the amendment made by subsection (a) of this section [amending subsec. (d) of this section] shall be available for expenditure only in connection with the construction of a bridge across Markland Dam on the Ohio River near Markland, Indiana, and Warsaw, Kentucky. No such sums shall be appropriated until all applicable requirements of section 320 of title 23 of the United States Code have been complied with by the appropriate Federal agency, the Secretary of Transportation, and the States of Kentucky and Indiana."

Section 123(b) of Pub. L. 93-643 provided that: "All sums appropriated under authority of the increased authorization established by the amendment made by subsection (a) of this section shall be available for expenditure in the same manner and for the same purpose as provided for in subsection (b) of section 116 of the Federal-Aid Highway Act of 1970 (Public Law 91-605)."

Section 128(b) of Pub. L. 93-87 provided that: "All sums appropriated under authority of the increased authorization of $8,500,000 established by the amendment made by subsection (a) of this section [to subsec. (d) of this section] shall be available for expenditure only in connection with the construction of a bridge across lock and dam numbered 13 on the Arkansas River near Fort Smith, Arkansas, in the amount of $2,100,000 and in connection with reconstruction of a bridge across the Chickamauga Dam on the Tennessee River near Chattanooga, Tennessee, in the amount of $6,400,000. No such sums shall be appropriated until all applicable requirements of section 320 of title 23 of the United States Code have been complied with by the appropriate Federal agency, the Secretary of Transportation, and the State of Arkansas for the Fort Smith project, and the State of Tennessee for the Chattanooga project."

§ 321. National Highway Institute

(a) The Secretary is authorized and directed to establish and operate in the Federal Highway Administration a National Highway Institute hereafter referred to as the "Institute". The Institute shall develop and administer, in cooperation with the State highway departments, training programs of instruction for Federal Highway Administration and State and local highway department employees engaged or to be engaged in Federal-aid highway work. Such programs may include, but not be limited to, courses in modern development, techniques, and procedures, relating to highway planning, environmental factors, acquisition of rights-of-way, engineering, construction, maintenance, contract administration, and inspection. The Secretary shall administer all authority vested in him by this title or by any other provision of law for the development and conduct of educational and training programs relating to highways through the Institute. Sums authorized to be deducted for administrative purposes by subsection (a) of section 104 of this title shall be available for carrying out this subsection.

(b) Not to exceed one-half of 1 per centum of all funds apportioned for any fiscal year beginning after June 30, 1970, to any State under paragraphs (1), (2), (3), and (6) of section 104(b) of this title shall be available for expenditure by the State highway department, subject to approval by the Secretary, for payment of not to exceed 70 per centum of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

(c) Education and training of Federal, State, and local highway employees authorized by this section may be provided by the Secretary, or, in the case where such education and training is to be paid for under subsection (b) of this section, by the State, subject to the approval of the Secretary, through grants and contracts

with public and private agencies, institutions and individuals.

(Added Pub. L. 91-605, title I, § 115(a), Dec. 31, 1970, 84 Stat. 1723.)

§ 322. Demonstration project—rail crossings

(a) The Secretary shall carry out a demonstration project for the elimination of all public ground-level rail-highway crossings along the route of the high-speed ground transportation demonstration projects between Washington, District of Columbia, and Boston, Massachusetts, conducted under authority of the Act entitled "An Act to authorize the Secretary of Commerce to undertake research and development in high-speed ground transportation, and for other purposes", approved September 30, 1965 (49 U.S.C. 1631 et seq.). The Secretary may permit selected individual public crossings of unusually low-potential hazard to remain at ground level, if they are provided with the best available protection.

(b) The Secretary shall carry out a demonstration project for the elimination or protection of certain public ground-level rail-highway crossings in, or in the vicinity of, Greenwood, South Carolina.

(c)(1) If the highway involved is on any Federal-aid system, the Federal share of the cost of such work shall be 90 per centum and the railroad's share of such cost shall be 10 per centum.

(2) If the highway involved is not on any Federal-aid system, the Federal share of the cost of such work shall be 80 per centum and the railroad's share of such cost shall be 10 per centum and the remaining 10 per centum of such cost shall be paid by the State in which such crossing is located.

(d) Before paying any part of the cost of the demonstration projects authorized by this section, the Secretary shall enter into such agreements with the States and railroads involved to insure that all non-Federal costs will be provided as required by this section.

(e) The Secretary, in cooperation with State highway departments, shall conduct a full and complete investigation and study of the problem of providing increased highway safety at public and private ground-level rail-highway crossings on a nationwide basis through the elimination of such crossings or otherwise, including specifically high-speed rail operations in all parts of the country, and report to Congress his recommendations resulting from such investigation and study not later than July 1, 1972, including an estimate of the cost of such a program. Funds authorized to carry out section 307 of this title are authorized to be used to carry out the investigation and study required by this subsection.

(f) There is authorized to be appropriated not to exceed $9,000,000 from the Highway Trust Fund to carry out paragraph (1) of subsection (c) of this section. There is authorized to be appropriated out of the general fund not to exceed $22,000,000 to carry out paragraph (2) of subsection (c) of this section.

(Added Pub. L. 91-605, title II, § 205(a), Dec. 31, 1970, 84 Stat. 1742, and amended Pub. L. 93-643, § 117, Jan. 4, 1975, 88 Stat. 2288.)

REFERENCE IN TEXT

The Act approved September 30, 1965, referred to in subsec. (a), is Pub. L. 89-220, Sept. 30, 1965, 79 Stat. 893, which is classified generally to chapter 22 (§ 1631 et seq.) of Title 49, Transportation. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-643 authorized Secretary's permission for selection of individual public crossings of unusually low-potential hazard to remain at ground level, if they are provided with the best available protection.

§ 323. Donations

Nothing in this title, or in any other provision of law, shall be construed to prevent a person whose real property is being acquired in connection with a project under this title, after he has been fully informed of his right to receive just compensation for the acquisition of his property, from making a gift or donation of such property, or any part thereof, or of any of the compensation paid therefor, to a Federal agency, a State or a State agency, or a political subdivision of a State, as said person shall determine.

(Added Pub. L. 93-87, title I, § 145(a), Aug. 13, 1973, 87 Stat. 273, and amended Pub. L. 93-643, § 112, Jan. 4, 1975, 88 Stat. 2285.)

AMENDMENTS

1975—Pub. L. 93-643 substituted "after he has been fully informed of his right to receive just compensation for the acquisition of his property" for "after he has been tendered the full amount of the estimated just compensation as established by an approved appraisal of the fair market value of the subject real property".

§ 324. Prohibition of discrimination on the basis of sex

No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a discriminatee.

(Added Pub. L. 93-87, title I, § 162(a), Aug. 13, 1973, 87 Stat. 280.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000d of Title 42 and Tables volume.

CHAPTER 4—HIGHWAY SAFETY

Sec.
401. Authority of the Secretary.
402. Highway safety programs.
403. Highway safety research and development.

Sec.
404. National Highway Safety Advisory Committee.
405. Repealed.
406. School bus driver training.

AMENDMENTS

1976—Pub. L. 94-280, title I, § 135(d), May 5, 1976, 90 Stat. 442, substituted item 405 "Repealed" for "Federal-aid safer roads demonstration program".

1975—Pub. L. 93-643, § 126(b), Jan. 4, 1975, 88 Stat. 2291, added item 406.

1973—Pub. L. 93-87, title II, § 230(b), Aug. 13, 1973, 87 Stat. 294, added item 405.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 300d-5; title 49 sections 1652, 1655.

§ 401. Authority of the Secretary

The Secretary is authorized and directed to assist and cooperate with other Federal departments and agencies, State and local governments, private industry, and other interested parties, to increase highway safety. For the purposes of this chapter, the term "State" means any one of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa, except that all expenditures for carrying out this chapter in the Virgin Islands, Guam, and American Samoa shall be paid out of money in the Treasury not otherwise appropriated.

(Added Pub. L. 89-564, title I, § 101, Sept. 9, 1966, 80 Stat. 731, and amended Pub. L. 93-87, title II, § 218, Aug. 13, 1973, 87 Stat. 290.)

AMENDMENTS

1973—Pub. L. 93-87 inserted definition of term "State" and provided that all expenditures for carrying out this chapter in the Virgin Islands, Guam, and American Samoa shall be paid out of money in the Treasury not otherwise appropriated.

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-280, title II, § 201, May 5, 1976, 90 Stat. 451, provided that: "That title [consisting of sections 201 to 213, classified only in part to the Code as follows: amending sections 104(g), 151(c), (g), 402(c), (j), 404(a)(1), and 406 and provisions set out as a note under section 130 of this title and enacting provisions set out as notes under sections 127 and 402 of this title] may be cited as the 'Highway Safety Act of 1976'."

SHORT TITLE OF 1973 AMENDMENT

Section 201 of Pub. L. 93-87 provided that: "This title [title II of Pub. L. 93-87, which enacted sections 151 to 153 and 405 of this title, amended sections 104 and 401 to 404 of this title, and enacted provisions set out as notes under sections 130, 144, 151, 217, 401, and 403 of this title] may be cited as the 'Highway Safety Act of 1973'."

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91-605, title II, § 201, Dec. 31, 1970, 84 Stat. 1739, provided that: "This title [enacting sections 144 and 322 of this title, amending sections 401 note and 402 note, and enacting provisions set out as notes under this section and section 402 of this title] may be cited as the 'Highway Safety Act of 1970'."

SHORT TITLE

Section 208 of Pub. L. 89-564 provided that: "This Act [which enacted this chapter, amended sections 105 and 307 of this title, repealed sections 135 and 313 of this title, and enacted provisions set out as notes under this section and sections 303, 307, 402 and 403 of this title] may be cited as the 'Highway Safety Act of 1966'."

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

HIGHWAY SAFETY EDUCATIONAL PROGRAMING AND STUDY; REPORT TO CONGRESS; SERIES OF HIGHWAY SAFETY TELEVISION PROGRAMS; APPROPRIATIONS AUTHORIZATIONS

Section 211 of Pub. L. 93-87 provided that:

"(a) The Secretary of Transportation, in cooperation with interested government and nongovernment authorities, agencies, organizations, institutions, businesses, and individuals, shall conduct a full and complete investigation and study of the use of mass media for informing and educating the public of ways and means for reducing the number and severity of highway accidents. Such a study shall include, but not be limited to, ways and means for encouraging the participation and cooperation of television and radio station licensees, for measuring audience reactions to current educational programs, for evaluating the effectiveness of such programs, and for developing new programs for the promotion of highway safety. The Secretary shall report to the Congress his findings and recommendations by June 30, 1974.

"(b) For the purpose of carrying out subsection (a) of this section, there is hereby authorized to be appropriated the sum of $1,000,000 out of the Highway Trust Fund.

"(c) The Secretary of Transportation, in consultation with State and local highway safety officials, shall develop a series of highway safety television programs of varying length, up to and including five minutes, for use in accordance with the provisions of the Communications Act of 1934 [chapter 5 of Title 47, Telegraphs, Telephones, and Radiotelegraphs]. At least 50 per centum of the funds authorized and expended under subsection (d) of this section shall be allocated to the States at the discretion of the Secretary for approved programing projects. To the maximum extent feasible, the services of private individuals shall be utilized in carrying out this subsection.

"(d) For the purpose of carrying out subsection (c) of this section, there is hereby authorized to be appropriated the sum of $4,000,000 out of the Highway Trust Fund."

HIGHWAY SAFETY CITIZEN PARTICIPATION STUDY

Section 212 of Pub. L. 93-87 authorized the appropriation of $1,000,000 for a study by the Secretary of Transportation, with cooperation of State and local highway safety authorities, of ways and means of encouraging greater citizen participation in highway safety programs, the results of such study and recommendations to be reported to Congress by June 30, 1974.

NATIONAL CENTER FOR STATISTICAL ANALYSIS OF HIGHWAY OPERATIONS

Section 213 of Pub. L. 93-87 authorized the appropriation of $5,000,000 to make a study of the feasibility of establishing a National Center for Statistical Analysis of Highway Operations designed to acquire, store and retrieve accident data, the results of such study and recommendations to be reported to Congress not later than Jan. 1, 1975.

PEDESTRIAN AND BICYCLE SAFETY STUDY

Section 214 of Pub. L. 93-87 authorized the appropriation of $5,000,000 for a study of pedestrian and bicycle safety, including a review of local ordinances, the relationship between alcohol and pedestrian and bicycle safety, etc., the results of such study and recommendations to be reported to Congress not later than Jan. 31, 1975.

NATIONAL HIGHWAY SAFETY BUREAU

Administration of National Traffic and Motor Vehicle Safety Act through the Bureau and its Director, see Ex. Ord. No. 11357, June 6, 1967, 32 F.R. 8225, set out as a note under section 1392 of Title 15, Commerce and Trade.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION; CREATION; APPOINTMENT OF ADMINISTRATOR AND DEPUTY ADMINISTRATOR; DUTIES; RETROACTIVE EFFECT

Section 201 of Pub. L. 89-564, as amended by Pub. L. 89-670, § 8(h), Oct. 15, 1966, 80 Stat. 943; Pub. L. 90-83, § 10(b), Sept. 11, 1967, 81 Stat. 224; Pub. L. 91-605, title II, § 202(a), Dec. 31, 1970, 84 Stat. 1739, provided that:

"(a) There is hereby established within the Department of Transportation a National Highway Traffic Safety Administration (hereafter in this section referred to as the 'Administration'). The Administration shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the annual rate of basic pay of level III of the Executive Schedule in section 5314 of title 5, United States Code. There shall be a Deputy Administrator of the National Highway Traffic Safety Administration who shall be appointed by the Secretary of Transportation, with the approval of the President, and who shall be compensated at the annual rate of basic pay of level V of the Executive Schedule in section 5316 of title 5, United States Code. The Administrator shall perform such duties as are delegated to him by the Secretary. On all matters pertaining to the design, construction, maintenance, and operation of highways, the Administrator shall consult with the Federal Highway Administrator.

"(b)(1) The Secretary shall carry out through the Federal Highway Administration those provisions of the Highway Safety Act of 1966 (including chapter 4 of title 23, United States Code) [enacting this chapter, amending sections 105 and 307 of this title, repealing sections 135 and 313 of this title, and enacting provisions set out as notes under this section and sections 303, 307, 402, and 403 of this title] for highway safety programs, research, and development relating to highway design, construction and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian safety.

"(2) The Secretary shall carry out, through the Administration, all other provisions of such Act (including chapter 4 of title 23, United States Code) for highway safety programs, research and development not specifically referred to in paragraph (1) of this subsection.

"(c) The Secretary is authorized to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718) [section 1381 et seq. of Title 15, Commerce and Trade] through the Administration and Administrator authorized by this section.

"(d) All provisions of law enacted before the date of enactment of the Highway Safety Act of 1970 [Dec. 31, 1970] which are inconsistent with this section as amended by such Act of 1970 are hereby repealed to the extent of such inconsistency."

ACTING ADMINISTRATOR OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Pub. L. 91-605, title II, § 202(b), Dec. 31, 1970, 84 Stat. 1740, permitted the President to authorize any person who immediately before Dec. 31, 1970 held the office of Director of the National Highway Safety Bureau, to act as Administrator of the National Highway Traffic Safety Administration until the appointment of the first Administrator.

ANNUAL REPORT TO CONGRESS ON ADMINISTRATION OF HIGHWAY SAFETY ACT OF 1966

Section 202 of Pub. L. 89-564, as amended by Pub. L. 93-87, title II, § 224, Aug. 13, 1973, 87 Stat. 292, provided that:

"(a) The Secretary shall prepare and submit to the President for transmittal to the Congress on July 1 of each year a comprehensive report on the administration of the Highway Safety Act of 1966 (including chapter 4 of title 23 of the United States Code) for the preceding calendar year. Such report should include but not be restricted to (1) a thorough statistical compilation of the accidents and injuries occurring in such year; (2) a list of all safety standards issued or in effect in such year; (3) the scope of observance of applicable Federal standards; (4) a statement of enforcement actions including judicial decisions, settlements, or pending litigation during the year; (5) a summary of all current research grants and contracts together with a description of the problems to be considered by such grants and contracts; (6) an analysis and evaluation of completed research activities and technological progress achieved during such year together with the relevant policy recommendations flowing therefrom: (7) the effectiveness of State highway safety program (including local highway safety programs) and (8) the extent to which technical information was being disseminated to the scientific community and consumer-oriented material was made available to the motoring public.

"(b) The annual report shall also contain such recommendations for additional legislation as the Secretary deems necessary to promote cooperation among the several States in the improvement of highway safety and to strengthen the national highway safety program."

HIGHWAY SAFETY NEEDS STUDY

Section 225 of Pub. L. 93-87 mandated a study by the Secretary of Transportation of highway safety needs of the States, including those of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands and other territories, in order to evaluate continuing safety programs and furnish Congress with information necessary for authorization of appropriations for continuing safety programs, the results of such study, estimates and recommendations to be submitted to Congress not later than Jan. 10, 1976.

DETAILED COST ESTIMATE OF HIGHWAY SAFETY ACT OF 1966

Section 207 of Pub. L. 89-564 mandated that the Secretary, in cooperation with the Governors of appropriate State highway safety agencies, make a detailed estimate of the cost of carrying out the Highway Safety Act of 1966 in order to provide a basis for evaluating continuing programs under the Act and to furnish Congress information necessary for authorization of appropriations for fiscal years beginning after June 30, 1969, such estimates to be submitted to Congress not later than Jan. 10, 1968.

AUTOMOBILE INSURANCE INVESTIGATION

Authorization of Secretary of Transportation to conduct comprehensive study and investigation of compensation system for motor vehicle accident losses, and for other purposes, see Pub. L. 90-313, May 22, 1968, 82 Stat. 126, set out as a note under section 1653 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 152, 153 of this title.

§ 402. Highway safety programs

(a) Each State shall have a highway safety program approved by the Secretary, designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom. Such programs shall be in accordance with uniform standards promulgated by the Secretary. Such uniform standards shall be expressed in terms of performance criteria. Such uniform standards shall be promulgated by the Secretary so

as to improve driver performance (including, but not limited to, driver education, driver testing to determine proficiency to operate motor vehicles, driver examinations (both physical and mental) and driver licensing) and to improve pedestrian performance and bicycle safety. In addition such uniform standards shall include, but not be limited to, provisions for an effective record system of accidents (including injuries and deaths resulting therefrom), accident investigations to determine the probable causes of accidents, injuries, and deaths, vehicle registration, operation, and inspection, highway design and maintenance (including lighting, markings, and surface treatment), traffic control, vehicle codes and laws, surveillance of traffic for detection and correction of high or potentially high accident locations, and emergency services. Such standards as are applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations. The Secretary shall be authorized to amend or waive standards on a temporary basis for the purpose of evaluating new or different highway safety programs instituted on an experimental, pilot, or demonstration basis by one or more States, where the Secretary finds that the public interest would be served by such amendment or waiver.

(b)(1) The Secretary shall not approve any State highway safety program under this section which does not—

(A) provide that the Governor of the State shall be responsible for the administration of the program through a State agency which shall have adequate powers, and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program.

(B) authorize political subdivisions of such State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the uniform standards of the Secretary promulgated under this section.

(C) provide that at least 40 per centum of all Federal funds apportioned under this section to such State for any fiscal year will be expended by the political subdivisions of such State in carrying out local highway safety programs authorized in accordance with subparagraph (B) of this paragraph.

(D) provide that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for highway safety programs will be maintained at a level which does not fall below the average level of such expenditures for its last two full fiscal years preceding the date of enactment of this section.

(E) provide for comprehensive driver training programs, including (1) the initiation of a State program for driver education in the school systems or for a significant expansion and improvement of such a program already in existence, to be administered by appropriate school officials under the supervision of the Governor as set forth in subparagraph (A) of this paragraph; (2) the training of qualified school instructors and their certification; (3) appropriate regulation of other driver training schools, including licensing of the schools and certification of their instructors; (4) adult driver training programs, and programs for the retraining of selected drivers; (5) adequate research, development and procurement of practice driving facilities, simulators, and other similar teaching aids for both school and other driver training use, and (6) driver education programs, including research, that will assure greater safety for bicyclists using public roads in such State.

(F) provide adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State.

(2) The Secretary is authorized to waive the requirement of subparagraph (C) of paragraph (1) of this subsection, in whole or in part, for a fiscal year for any State whenever he determines that there is an insufficient number of local highway safety programs to justify the expenditure in such State of such percentage of Federal funds during such fiscal year.

(c) Funds authorized to be appropriated to carry out this section shall be used to aid the States to conduct the highway safety programs approved in accordance with subsection (a), including development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of accidents, and deaths and injuries resulting therefrom. Such funds shall be subject to a deduction not to exceed 5 per centum for the necessary costs of administering the provisions of this section, and the remainder shall be apportioned among the several States. For the fiscal years ending June 30, 1967, June 30, 1968, and June 30, 1969, such funds shall be apportioned 75 per centum on the basis of population and 25 per centum as the Secretary in his administrative discretion may deem appropriate and thereafter such funds shall be apportioned 75 per centum in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 per centum in the ratio which the public road mileage in each State bears to the total public road mileage in all States. For the purposes of this subsection, a "public road" means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary. The annual apportionment to each State shall not be less than one-half of 1 per centum of the total apportionment, except that the apportionments to the Virgin Islands, Guam, and American Samoa shall not be less than one-third of 1 per centum of the total apportionment. After December 31, 1969, the Secretary shall not apportion any funds under the subsection to any State which is not implementing a highway

safety program approved by the secretary in accordance with this section. For the purpose of the seventh sentence of this subsection, a highway safety program approved by the Secretary shall not include any requirement that a State implement such a program by adopting or enforcing any law, rule, or regulation based on a standard promulgated by the Secretary under this section requiring any motorcycle operator eighteen years of age or older or passenger eighteen years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State. Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform standard, or with every element of every uniform standard, in every State. Funds apportioned under this section to any State, that does not have a highway safety program approved by the Secretary or that is not implementing an approved program, shall be reduced by amounts equal to not less than 50 per centum of the amounts that would otherwise be apportioned to the State under this section, until such time as the Secretary approves such program or determines that the State is implementing an approved program, as appropriate. The Secretary shall consider the gravity of the State's failure to have or implement an approved program in determining the amount of the reduction. The Secretary shall promptly apportion to the State the funds withheld from its apportionment if he approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, prior to the end of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in this subsection not later than 30 days after such determination.

(d) All provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the highway safety funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section, and except that the aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section without regard to whether such expenditures were actually made in connection with such project and except that, in the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, he may increase the Federal share of the cost thereof payable under this Act to the extent necessary. In applying such provisions of chapter 1 in carrying out this section the term "State highway department" as used in such provisions shall mean the Governor of a State for the purposes of this section.

(e) Uniform standards promulgated by the Secretary to carry out this section shall be developed in cooperation with the States, their political subdivisions, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate.

(f) The Secretary may make arrangements with other Federal departments and agencies for assistance in the preparation of uniform standards for the highway safety programs contemplated by subsection (a) and in the administration of such programs. Such departments and agencies are directed to cooperate in such preparation and administration, on a reimbursable basis.

(g) Nothing in this section authorizes the appropriation or expenditure of funds for (1) highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into standards) or (2) any purpose for which funds are authorized by section 403 of this title.

(h) Each uniform safety standard promulgated under this section on or before July 1, 1973, shall continue in effect unless otherwise specifically provided by law enacted after the date of enactment of the Federal-aid Highway Act of 1973. The Secretary shall not promulgate any other uniform safety standard under this section (including by revision of standard continued in effect by the preceding sentence) unless otherwise specifically provided by law enacted after the date of enactment of the Federal-aid Highway Act of 1973.

(i) For the purpose of the application of this section on Indian reservations, "State" and "Governor of a State" includes the Secretary of the Interior and "political subdivision of a State" includes an Indian tribe: *Provided,* That, notwithstanding the provisions of subparagraph (C) of subsection (b)(1) hereof, 95 per centum of the funds apportioned to the Secretary of the Interior after date of enactment, shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions: *And provided further,* That the provisions of subparagraph (E) of subsection (b)(1) hereof shall be applicable except in those tribal jurisdictions in which the Secretary determines such programs would not be practicable.

(j)(1) In addition to other grants authorized by this section, the Secretary may make incentive grants in each fiscal year to those States which have adopted legislation requiring the use of seatbelts in accordance with criteria which the Secretary shall establish and publish. Such grants may only be used by recipient States to further the purposes of this chapter. Such grants shall be in addition to other funds authorized by this section. There is hereby authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund, not to exceed $25,000,000 for the fiscal year ending June 30, 1974, not to exceed $32,000,000 for the fiscal year ending June 30, 1975, and not to exceed $37,500,000 for the fiscal year ending June 30, 1976.

(2) In addition to other grants authorized by this section, the Secretary may make additional incentive grants to those States which have made the most significant progress in reducing traffic fatalities based on the reduction in the rate of such fatalities per one hundred million-vehicle miles during the calendar year immediately preceding the fiscal year for which such incentive funds are authorized compared with the average annual rate of such fatalities for the four-calendar-year period preceding such calendar year. Such incentive grants shall be made in accordance with criteria which the Secretary shall establish and publish. Such grants may only be used by recipient States to further the purposes of this chapter. Such grants shall be in addition to other funds authorized by this section. There is hereby authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund, not to exceed $12,500,000 for the fiscal year ending June 30, 1974, not to exceed $16,000,000 for the fiscal year ending June 30, 1975, and not to exceed $19,000,000 for the fiscal year ending June 30, 1976.

(3) In addition to other grants authorized by this section, the Secretary may make additional incentive grants to those States which have significantly reduced the actual number of traffic fatalities during the calendar year immediately preceding the fiscal year for which such incentive funds are authorized compared to the average of the actual number of traffic fatalities for the four-calendar-year period preceding such calendar year. Such incentive grants shall be made in accordance with criteria which the Secretary shall establish and publish. Such grants may only be used by recipient States to further the purposes of this chapter. Such grants shall be in addition to other funds authorized by this section.

(4) No State shall receive from funds authorized for any fiscal year or period by this subsection incentive grants under paragraph (1) of this subsection which exceed an amount equal to 25 per centum of the amount apportioned to such State under this section for such fiscal year or period. No State shall receive from funds authorized for any fiscal year or period by this subsection incentive awards under paragraph (2) of this subsection which exceed an amount equal to 25 per centum of the amount apportioned to such State under this section for such fiscal year or period. No State shall receive from funds authorized for any fiscal year or period by this subsection incentive awards under paragraph (3) of this subsection which exceed an amount equal to 25 per centum of the amount apportioned to such State under this section for such fiscal year or period.

(5) Notwithstanding subsection (c) of this section, no part of the sums authorized by this subsection shall be apportioned as provided in such subsection. Sums authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under subsection (c) of this section.

(Added Pub. L. 89-564, title I, § 101, Sept. 9, 1966, 80 Stat. 731, and amended Pub. L. 90-495, § 13, Aug. 23, 1968, 82 Stat. 822; Pub. L. 91-605, title II, §§ 202(c), (d), (e), 203(a), Dec. 31, 1970, 84 Stat. 1740, 1741; Pub. L. 93-87, title II, §§ 207, 215-217, 219, 228, 229, 231, Aug. 13, 1973, 87 Stat. 285, 290, 293, 294; Pub. L. 94-280, title II, §§ 204, 208(a), 211, 212, May 5, 1976, 90 Stat. 453, 454, 455.)

REFERENCES IN TEXT

"This Act", referred to in subsec. (d), probably means Pub. L. 93-87, Aug. 13, 1973, 87 Stat. 250. For complete classification of this Act to the Code, see Tables volume.

Date of enactment, referred to in subsecs. (h) and (l), means Aug. 13, 1973, date of approval of Pub. L. 93-87.

AMENDMENTS

1976—Subsec. (c), sixth sentence. Pub. L. 94-280, § 211, inserted exception provision requirement that the apportionments to the Virgin Islands, Guam, and American Samoa be not less than one-third of 1 per centum of the total apportionment.

Subsec. (c), eighth and ninth sentences. Pub. L. 94-280, § 208(a), added eighth and ninth sentences: excluding from any highway safety program approved by the Secretary any requirement that a State implement a Federal safety helmet wearing standard for operators or passengers of motorcycles by adopting or enforcing any law, rule, or regulation based on the Federal standard, and authorizing State implementation of a highway safety program without compliance with every uniform standard in every State; and deleted prior eighth, ninth, and tenth sentences providing for: a 10 per centum reduction of funds apportioned to a State on or after January 1, 1970, for nonimplementation of a highway safety program approved by the Secretary during such a period; suspension of application of such provision during necessary periods when in the public interest; and reapportionment of withheld amounts to other States in accordance with applicable provisions of law, now covered in the tenth through thirteenth sentences.

Subsec. (c), tenth through thirteenth sentences. Pub. L. 94-280, § 212, added provisions for: a 50 per centum reduction of funds apportioned to a State during time of absence or nonimplementation of a highway safety program; gravity rule in determining amount of reduction of funds; apportionment to a State of withheld funds prior to the end of the fiscal year for which the funds were withheld in event of approval of or State implementation of a highway safety program; and for reapportionment of funds to other States in accordance with the prescribed formula not later than 30 days after determination of absence of correction by a State, similar provisions being formerly covered in prior eighth, ninth, and tenth sentences providing for: a 10 per centum reduction of funds apportioned to a State on or after January 1, 1970, for nonimplementation of a highway safety program approved by the Secretary during such a period; suspension of application of such provision during necessary periods when in the public interest; and reapportionment of withheld amounts to other States in accordance with applicable provisions of law.

Subsecs. (j)(3) to (5). Pub. L. 94-280, § 204, added par. (3) provisions respecting incentive safety grants, deleted prior par. (3) provisions limiting incentive awards authorized by this section to 25 per centum of each State's apportionment as authorized by this chapter, and added pars. (4) and (5).

1973—Subsec. (a). Pub. L. 93-87, § 231(a), provided for the promulgation of uniform standards so as to improve bicycle safety.

Subsec. (b)(1)(E)(6). Pub. L. 93-87, § 231(b), added item (6) of subpar. (E).

Subsec. (b)(1)(F). Pub. L. 93-87, § 228, added subpar. (F).

Subsec. (c). Pub. L. 93-87, §§ 215-217, provided for use of funds for development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of accidents, and deaths

and injuries resulting therefrom and inserted "Such funds" preceding "shall be subject to a deduction"; provided for the determination of public road mileage as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary; and increased the annual apportionment to each State from "one-third of 1 per centum" to "one-half of 1 per centum" of the total apportionment, respectively.

Subsec. (d). Pub. L. 93-87, § 207(b), inserted at end of first sentence provision that in the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, he may increase the Federal share of the cost thereof payable under this Act to the extent necessary.

Subsec. (h). Pub. L. 93-87, § 229, substituted provisions for continuation of uniform safety standards promulgated under this section on or before July 1, 1973, unless otherwise specifically provided by law enacted after Aug. 13, 1973, and prohibiting the Secretary from promulgating any other uniform safety standard under this section (including by revision of a standard continued in effect by the preceding sentence) unless otherwise specifically provided by law enacted after Aug. 13, 1973, for former prohibition against promulgation of any other uniform safety standard unless at least 90 days prior to the effective date of such standard the Secretary shall have submitted such standard to Congress, except in the case of State safety program elements with respect to which uniform standards have been promulgated by the Secretary before Dec. 31, 1970.

Subsec. (i). Pub. L. 93-87, § 207(a), added subsec. (i).

Subsec. (j). Pub. L. 93-87, § 219, added subsec. (j).

1970—Subsec. (b)(1)(A). Pub. L. 91-605, § 203(A), required the Governor of a State be responsible for the administration of the State highway safety program through a State agency suitably organized and possessed of adequate powers to carry out such programs to the satisfaction of the Secretary.

Subsec. (c). Pub. L. 91-605, § 202(c), provided a formula for apportionments to States, after June 30, 1969, to carry out this section, whereby 75% of the appropriation is based on the ratio which the population of each State bears to the total population of all the States and 25% of the appropriation is based on the ratio which the public road mileage in each State bears to the total public road mileage in all States, defined "public road", provided the annual apportionment to each State not to be less than one-third of 1% of the total apportionment, struck out provisions authorizing appropriations after June 30, 1969 to be apportioned as Congress shall provide and struck out provisions mandating the Secretary to report to Congress his recommendations for a nondiscretionary formula of apportionment for the fiscal year ending June 30, 1970, and the fiscal years thereafter.

Subsec. (d). Pub. L. 91-605, § 202(d), provided that the aggregate of all expenditures made during any fiscal year by a State and its political subdivisions for carrying out the State highway safety program be available for crediting such State for the non-Federal share of the cost of any project under this section without regard to whether such expenditures were actually made in connection with such project.

Subsec. (h). Pub. L. 91-605, § 202(e), added subsec. (h).

1968—Subsec. (c). Pub. L. 90-495 substituted "December 31, 1969" for "December 31, 1968" as the last day on which the Secretary may apportion funds to States which are not implementing highway safety programs approved by the Secretary and substituted "January 1, 1970" for "January 1, 1969" as the date after which funds apportioned to States not having approved safety programs shall be reduced until a safety program is implemented.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 203(b) of Pub. L. 91-605 provided that: "The amendment made by subsection (a) of this section [amending subsec. (b)(1)(A) of this section] shall take effect December 31, 1971."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

EVALUATION OF SAFETY STANDARDS; REPORT TO CONGRESS

Section 208(b) of Pub. L. 94-280 provided that: "The Secretary of Transportation shall, in cooperation with the States, conduct an evaluation of the adequacy and appropriateness of all uniform safety standards established under section 402 of title 23 of the United States Code which are in effect on the date of enactment of this Act [May 5, 1976]. The Secretary shall report his findings, together with his recommendations, including but not limited to, the need for revision or consolidation of existing standards and the establishment of new standards, to Congress on or before July 1, 1977. Until such report is submitted, the Secretary shall not, pursuant to subsection (c) of section 402 of title 23, United States Code, withhold any apportionment or any funds apportioned to any State because such State is failing to implement a highway safety program approved by the Secretary in accordance with such section 402."

AUTHORIZATION OF APPROPRIATIONS

Section 104 of Pub. L. 89-564 authorized the appropriation of $67,000,000, $100,000,000, and $100,000,000 for the fiscal years ending June 30, 1967, 1968, and 1969, respectively, to carry out this section.

STUDY OF RELATIONSHIP BETWEEN CONSUMPTION OF ALCOHOL AND HIGHWAY SAFETY

Section 204 of Pub. L. 89-564 directed the Secretary of Commerce to make a thorough and complete study of the relationship between the consumption of alcohol and its effect upon highway safety and drivers of motor vehicles, in consultation with such other government and private agencies as may be necessary. Such study shall cover review and evaluation of State and local laws and enforcement methods and procedures relating to driving under the influence of alcohol, State and local programs for the treatment of alcoholism, and such other aspects of this overall problem as may be useful. The results of this study were required to be reported to the Congress by the Secretary on or before July 1, 1967, with recommendations for legislation if warranted.

NATIONAL HIGHWAY SAFETY BUREAU

Provisions of section to be carried out by National Highway Safety Bureau, see section 201 of Pub. L. 89-564, set out as a note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 152, 153, 403, 404, 406 of this title; title 42 section 1857f-6b.

§ 403. Highway safety research and development

(a) The Secretary is authorized to use funds appropriated to carry out this subsection to carry out safety research which he is authorized to conduct by subsection (a) of section 307 of this title. In addition, the Secretary may use the funds appropriated to carry out this section, either independently or in cooperation

with other Federal departments or agencies, for making grants to or contracting with State or local agencies, institutions, and individuals for (1) training or education of highway safety personnel, (2) research fellowships in highway safety, (3) development of improved accident investigation procedures, (4) emergency service plans, (5) demonstration projects, and (6) related activities which the Secretary deems will promote the purposes of this section. The Secretary shall assure that no fees are charged for any meetings or services attendant thereto or other activities relating to training and education of highway safety personnel.

(b) In addition to the research authorized by subsection (a) of this section, the Secretary, in consultation with such other Government and private agencies as may be necessary, is authorized to carry out safety research on the following:

(1) The relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles; and

(2) Driver behavior research, including the characteristics of driver performance, the relationships of mental and physical abilities or disabilities to the driving task, and the relationship of frequency of driver accident involvement to highway safety.

(c) The research authorized by subsection (b) of this section may be conducted by the Secretary through grants and contracts with public and private agencies, institutions, and individuals.

(d) The Secretary may, where he deems it to be in furtherance of the purposes of section 402 of this title, vest in State or local agencies, on such terms and conditions as he deems appropriate, title to equipment purchased for demonstration projects with funds authorized by this section.

(e) In addition to the research authorized by subsection (a) of this section, the Secretary shall, either independently or in cooperation with other Federal departments or agencies, conduct research into, and make grants to or contracts with State or local agencies, institutions, and individuals for projects to demonstrate the administrative adjudication of traffic infractions. Such administrative adjudication demonstration projects shall be designed to improve highway safety by developing fair, efficient, and effective processes and procedures for traffic infraction adjudication, utilizing appropriate punishment, training, and rehabilitative measures for traffic offenders. The Secretary shall report to Congress by July 1,1975, and each year thereafter during the continuance of the program, on the research and demonstration projects authorized by this subsection, and shall include in such report a comparison of the fairness, efficiency, and effectiveness of administrative adjudication of traffic infractions with other methods of handling such infractions.

(f) In addition to the research authorized by subsection (a) of this section, the Secretary shall carry out research, development, and demonstration projects to improve and evaluate the effectiveness of various types of driver education programs in reducing traffic accidents and deaths, injuries, and property damage resulting therefrom. The research, development, and demonstration projects authorized by this subsection may be carried out by the Secretary through grants and contracts with public and private agencies, institutions, and individuals. The Secretary shall report to the Congress by July 1, 1975, and each year thereafter during the continuance of the program, on the research, development, and demonstration projects authorized by this subsection, and shall include in such report an evaluation of the effectiveness of driver education programs in reducing traffic accidents and deaths, injuries, and property damage resulting therefrom.

(Added Pub. L. 89-564, title I, § 101, Sept. 9, 1966, 80 Stat. 733, and amended Pub. L. 93-87, title II, §§ 208(a), 220-222, 226(a), Aug. 13, 1973, 87 Stat. 286, 291, 292.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-87, §§ 208(a), 220, designated existing provisions as subsec. (a); substituted in first sentence "this subsection" for "this section"; substituted in second sentence "for making grants to or contracting with State or local agencies, institutions, and individuals for (1) training or education of highway safety personnel" for "for (1) grants to State or local agencies, institutions, and individuals for training or education of highway safety personnel" and "(6) related activities which the Secretary deems will promote the purposes of this section" for (6) related activities which are deemed by the Secretary to be necessary to carry out the purposes of this section"; and added requirement that the Secretary assure that no fees be charged for any meeting or services attendant thereto or other activities relating to training and education of highway safety personnel.

Subsecs. (b), (c). Pub. L. 93-87, § 208(a), added subsecs. (b) and (c).

Subsecs. (d) to (f). Pub. L. 93-87, §§ 221, 222, 226(a), added subsecs. (d) to (f).

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

FORM AND USE OF REPORTS OF HIGHWAY TRAFFIC ACCIDENTS OR RESEARCH PROJECTS IN COURT; AVAILABILITY TO PUBLIC

Section 106 of Pub. L. 89-564 provided that: "All facts contained in any report of any Federal department or agency or any officer, employee, or agent thereof, relating to any highway traffic accident or the investigation thereof conducted pursuant to chapter 4 of title 23 of the United States Code shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident, and any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigation. Any such report shall be made available to the public in a manner which does not identify individuals. All completed reports on research projects, demonstration projects, and other related activities conducted under sections 307 and 403 of title 23, United States Code, shall be made available to the public in a manner which does not identify individuals."

APPROPRIATIONS AUTHORIZATIONS

Section 208(b) of Pub. L. 93-87 provided that: "There is authorized to be appropriated to carry out the amendments made by this section [to this section] by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, the sum of $10,000,000 per fiscal year for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976."

Section 226(b) of Pub. L. 93-87 provided that: "For the purpose of carrying out the amendment made by subsection (a) of this section [to subsec. (f) of this section], there is authorized to be appropriated $10,000,000 out of the Highway Trust Fund."

AUTHORIZATION OF ADDITIONAL APPROPRIATIONS

Authorization of appropriation of additional sum of $10,000,000 for the fiscal year ending June 30, 1967, $20,000,000 for the fiscal year ending June 30, 1968, and $25,000,000 for the fiscal year ending June 30, 1969, for the purpose of carrying out this section and section 307(a) of this title, see section 105 of Pub. L. 89-564, set out as a note under section 307 of this title.

NATIONAL HIGHWAY SAFETY BUREAU

Provisions of this section to be carried out by National Highway Safety Bureau, see section 201 of Pub. L. 89-564, set out as a note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 307, 402 of this title.

§ 404. National Highway Safety Advisory Committee

(a)(1) There is established in the Department of Transportation a National Highway Safety Advisory Committee, composed of the Secretary or an officer of the Department appointed by him, the Federal Highway Administrator, the National Highway Traffic Safety Administrator, and thirty-five members appointed by the President, no more than four of whom shall be Federal officers or employees. The Secretary shall select the Chairman of the Committee from among the Committee members. The appointed members, having due regard for the purposes of this chapter, shall be selected from among representatives of various State and local governments, including State legislatures, of public and private interests contributing to, affected by, or concerned with highway safety, including the national organizations of passenger car, bus, and truck owners, and of other public and private agencies, organizations, or groups demonstrating an active interest in highway safety, as well as research scientists and other individuals who are expert in this field.

(2)(A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of members first taking office after the date of enactment of this section shall expire as follows: Twelve at the end of one year after the date such committee members are appointed by the President, twelve at the end of two years after the date such committee members are appointed by the President, and eleven at the end of three years after the date such committee members are appointed, as designated by the President at the time of appointment, and (iii) the term of any member shall be extended until the date on which the successor's appointment is effective. None of the members appointed by the President who has served a three-year term, other than Federal officers or employees, shall be eligible for reappointment within one year following the end of his preceding term.

(B) Members of the Committee who are not officers or employees of the United States shall, while attending meetings or conferences of such Committee or otherwise engaged in the business of such Committee, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized in section 5 of the Adminstrative Expenses Act of 1946 (5 U.S.C. 73b-2) for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

(b) The National Highway Safety Advisory Committee shall advise, consult with, and make recommendations to, the Secretary on matters relating to the activities and functions of the Department in the field of highway safety. The Committee is authorized (1) to review research projects or programs submitted to or recommended by it in the field of highway safety and recommend to the Secretary, for prosecution under this title, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause and prevention of highway accidents; and (2) to review, prior to issuance, standards proposed to be issued by order of the Secretary under the provisions of section 402(a) of this title and to make recommendations thereon. Such recommendations shall be published in connection with the Secretary's determination or order.

(c) The National Highway Safety Advisory Committee shall meet from time to time as the Secretary shall direct, but at least once each year.

(d) The Secretary shall provide to the National Highway Safety Committee from among the personnel and facilities of the Department of Commerce such staff and facilities as are necessary to carry out the functions of such Committee.

(Added Pub. L. 89-564, title I, § 101, Sept. 9, 1966, 80 Stat. 733, and amended Pub. L. 90-150, Nov. 24, 1967, 81 Stat. 507; Pub. L. 93-87, title II, § 223, Aug. 13, 1973, 87 Stat. 292; Pub. L. 94-280, title II, § 209, May 5, 1976, 90 Stat. 455.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a)(2)(A), is Sept. 9, 1966.

Section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b-2), referred to in subsec. (a)(2)(B), was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 632. Section 7(b) of Pub. L. 89-554 provided that references to sections of former Title 5, Executive Departments and Government Officers and Employees, are to be deemed to be references to corresponding provisions of Title 5, Government Organization and Employees. Provisions similar to section 73b-2 of former title 5 are now contained in section 5703 of Title 5, Government Organization and Employees.

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-280 substituted provision for selection by the Secretary of the Chairman of the Committee from among the Committee members for prior provision making the Secretary or an of-

ficer of the Department appointed by him the Chairman of the Committee.

1973—Subsec. (a)(1). Pub. L. 93-87 added the National Highway Traffic Safety Administrator to the membership of the National Highway Safety Advisory Committee.

1967—Subsec. (a)(1). Pub. L. 90-150, § 1(1), substituted "Department of Transportation" for "Department of Commerce", increased number of Committee appointees from twenty-nine to thirty-five, and provided for selection of members from representatives of national organizations of passenger car, bus, and truck owners.

Subsec. (a)(2)(A). Pub. L. 90-150, § 1(2), substituted provisions for expirations of term of office of initial appointees one, two, and three years after date of appointment for twelve, twelve, and eleven members, respectively, for former provisions for such expiration one, two, and three years following enactment date of Sept. 9, 1966, for ten, ten, and nine members, respectively, and prohibited reappointment within one year after end of preceding term of member serving a three-year term of office.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 101 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

[§ 405. Repealed. Pub. L. 94-280, title I, § 135(c), May 5, 1976, 90 Stat. 442]

Section, added Pub. L. 93-87, title II, § 230(a), Aug. 13, 1973, 87 Stat. 293, and amended Pub. L. 93-643, § 121, Jan. 4, 1975, 88 Stat. 2289, related to the Federal-aid safer roads demonstration program.

§ 406. School bus driver training

(a) The Secretary is authorized to make grants to the States for the purpose of carrying out State programs approved by him of driver education and training for persons driving school buses.

(b) A State program under this section shall be approved by the Secretary if such program—

(1) provide for the establishment and enforcement of qualifications for persons driving school buses;

(2) provides for initial education and training and for refresher courses;

(3) provides for periodic reports to the Secretary on the results of such program; and

(4) includes persons driving publicly operated, and persons driving privately operated, school buses.

(c) Not less than $7,500,000 of the sums authorized to carry out section 402 of this title for fiscal year 1976 shall be obligated to carry out this section. Not less than $7,000,000 of the sums authorized to carry out section 402 of this title for each of the fiscal years 1977 and 1978 shall be obligated to carry out this section. All sums authorized to carry out this section shall be apportioned among the States in accordance with the formula established under subsection (c) of section 402 of this title, and shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under such subsection (c). The Federal share payable on account of any project to carry out a program under this title shall not exceed 70 per centum of the cost of the project.

(Added Pub. L. 93-643, § 126(a), Jan. 4, 1975, 88 Stat. 2291, and amended Pub. L. 94-280, title II, § 205, May 5, 1976, 90 Stat. 453.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-280 redesignated as subsec. (c) the authorization provisions previously set out as a second subsec. (b), provided for obligation of at least $7,000,000 for fiscal years 1977 and 1978 to carry out this section, and provided for availability of funds for obligation in the same manner and to the same extent as if the funds were apportioned under section 402(c) of this title.

[§§ 501 to 512. Repealed. Pub. L. 91-646, title II, § 220 (a)(10), Jan. 2, 1971, 84 Stat. 1903]

Sections, Pub. L. 90-495, § 30, Aug. 23, 1968, 82 Stat. 830-834, related to highway relocation assistance, providing as follows:

Section 501, declaration of policy.

Section 502, assurances of adequate relocation assistance program.

Section 503, administration of relocation assistance program.

Section 504, Federal reimbursement.

Section 505, relocation payments.

Section 506, amended Pub. L. 91-605, title I, § 137, Dec. 31, 1970, 84 Stat. 1735; replacement housing.

Section 507, expenses incidental to transfer of property.

Section 508, relocation services.

Section 509, relocation assistance programs on Federal highway projects.

Section 510, Pub. L. 91-605, title I, § 117(b), Dec. 31, 1970, 84 Stat. 1724, construction of replacement housing.

Section 511, formerly 510, renumbered Pub. L. 91-605, title I, § 117(a), Dec. 31, 1970, 84 Stat. 1724, authority of Secretary.

Section 512, formerly 511, renumbered Pub. L. 91-605, title I, § 117(a), Dec. 31, 1970, 84 Stat. 1724, definitions.

Subject matter is now covered by section 4601 et seq. of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF REPEAL

Repeal of sections not applicable to any State so long as sections 4630 and 4655 of Title 42, The Public Health and Welfare, are not applicable in such State; but such sections completely applicable to all States after July 1, 1972, but until such date applicable to a State to extent the State is able under its laws to comply with such sections, see section 221 of Pub. L. 91-646, set out as an Effective Date note under section 4601 of Title 42.

SAVINGS PROVISIONS

Any rights or liabilities existing under provisions repealed by section 220(a) of Pub. L. 91-646 as not affected by such repeal, see section 220(b) of Pub. L. 91-646, set out as Savings Provisions note under section 4621 of Title 42, The Public Health and Welfare.

EMINENT DOMAIN

Pub. L. 90-495, § 32, Aug. 23, 1968, 82 Stat. 830, which provided that nothing contained in chapter 5 of title 23, United States Code, was to be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of damages not in existence on Aug. 23, 1968, was re-

pealed by Pub. L. 91-646, title II, § 220(a)(11), Jan. 2, 1971, 84 Stat. 1903

ANNUAL REPORT TO CONGRESS

Pub. L. 90-495, § 33, Aug. 23, 1968, 82 Stat. 835, which provided that the Secretary of Transportation was to report annually to Congress, but no later than Jan. 15 of each year, concerning his administration of this chapter, together with his recommendations, including any necessary legislation with respect to this chapter, was repealed by Pub. L. 91-646, title II, § 220(a)(11), Jan. 2, 1971, 84 Stat. 1903.